UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF OHIO

EASTERN DIVISION

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| IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION | Case No. 1:17-MD-2804 |
| APPLIES TO ALL CASES | Hon. Dan A. Polster |

Case No. 1:17-MD-2804

\- - -

January 30, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

Videotaped deposition of JEFFREY S. PEACOCK, held at 200 Vesey Street, New York, New York, commencing at 9:16 a.m., on the above date, before Marie Foley, a Registered Merit Reporter, Certified Realtime Reporter and Notary Public.

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Janine Downing, Henry Schein
Henry Marte, videographer

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9:16 a.m.

New York, New York

- - -

THE VIDEOGRAPHER: We are now on the record.

My name is Henry Marte. I'm a videographer with Golkow Litigation Services.

Today's date is January 30th, 2019, and the time is 9:16 a.m.

This videotaped deposition is being held at 200 Vesey Street, New York, New York in the matter of National Prescription Opiate Litigation.

The deponent today is Jeffrey Peacock.

All appearances are noted on the stenographic record.

Will the court reporter please administer the oath to the witness.

- - -

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JEFFREY S. PEACOCK, the Witness herein, having been first duly sworn by a Notary Public in and of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. MIGLIORI:

Q. Good morning, sir.

A. Hi.

Q. My name is Don Migliori. I'm from a law firm called Motley Rice, and they represent various plaintiffs in this litigation.

It's good to meet you.

Have you ever had your deposition taken before?

A. No, never.

Q. Okay. Let me give you some basics, and then we'll get started.

I'm going to ask you questions throughout the day. The court reporter is going to take down my questions. If they're clear and understandable, I'd ask that you respond to them. If you don't

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understand the question, I'd ask you to let me know.

I would ask you to give me some time between my question and your answer such that, one, the court reporter can take it down, and, two, your counsel, if he chooses, would have an opportunity to put an objection down on the record.

Okay?

A. Mm-hm.

Q. Second rule is you have to actually say "yes" or "no."

A. Yes.

Q. And it's a lot easier for the court reporter to type that --

A. Yes.

Q. -- than nods or gestures or grunts.

If you answer a question, I'll assume that you've understood it.

Is that a fair ground rule for the day?

A. Sure.

Q. Okay.

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A. Yes.

Q. And if you need to take a break, I'm happy to do that. This isn't, hopefully not -- I don't think this will take a full day. But to the extent we need a break, I just ask that we finish the question that we're on before we go into a break. And I'm happy to accommodate anything that you need.

Before we get started, do you have questions of me or what we're about to do?

A. No. I'm clear. Thank you.

MR. McDONALD: Are you ready to start?

MR. MIGLIORI: Yeah.

MR. McDONALD: Let me just -- we're not getting realtime.

Are you?

MR. MIGLIORI: I am.

(Pause.)

BY MR. MIGLIORI:

Q. Okay. Sir, could you give the jury your full name and your address,

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please?

A. My name is Jeffrey Scott Peacock. I live at 2911 Chester Street, Oceanside, New York 11572.

Q. Okay. And, what is your job title?

A. I'm the vice-president of Global Quality Assurance and Regulatory Affairs.

Q. And the name of your employer is?

A. Henry Schein.

Q. How long have you worked there?

A. Five years six months, six-and-a-half months.

Q. Okay. We'll go through some of the specifics of your background and training.

I want to start with Exhibit Number 1.

(Peacock Exhibit 1, Plaintiffs' Notice of Oral Videotaped Deposition of Jeff Peacock As Fact Witness For Defendant Henry Schein, was marked for identification, as of this date.)

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BY MR. MIGLIORI:
Q. I'm going to pass these across the table. There are two copies. The one with the sticker is for you. The one that's not is for your counsel.
In front of you is what's been marked as Exhibit 1. It's a notice of today's deposition.
Were you provided this before today?
A. I left my glasses in my coat.
MR. McDONALD: They're in your jacket?
THE WITNESS: They're in my jacket pocket. Sorry.
MR. MIGLIORI: Not a problem. We will need those today.
THE VIDEOGRAPHER: Should we go off the record?
MR. MIGLIORI: It doesn't matter.
(Pause.)
THE VIDEOGRAPHER: Actually, can we go off the record for just one

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second? I think that phone might have disconnected on us.
MR. MIGLIORI: Okay.
THE VIDEOGRAPHER: The time is 9:21 a.m.
Going off the record.
(Recess taken.)
THE VIDEOGRAPHER: We are back on the record.
The time is 9:23 a.m.
BY MR. MIGLIORI:
Q. Okay. Had you seen, now that we're situated, had you seen this, the notice, before?
A. Yes, sir.
Q. When were you first advised of this deposition?
A. I don't remember the exact date. I was notified by our corporate attorney that I was called.
Q. Was it within the past few months?
A. Yes, weeks.
Q. And, did you meet with anybody

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in preparation for this deposition?
A. Yes.
Q. And, when did you first meet?
A. Yesterday.
Q. That was the first time you met?
A. Yes.
Q. Prior to that meeting, were you provided any materials to review in anticipation of the meeting?
A. No, sir.
Q. Have you reviewed documents in preparation for today?
A. Only yesterday.
Q. How long was your meeting yesterday?
A. Six hours.
Q. And, who was present?
A. Mr. McDonald, the next gentleman, and Margie.
Q. Okay.
A. I'm sorry.
Q. Scott?
A. Scott.
Q. That's okay. He is a gentleman.

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And the three of you met and they provided documents, or did you also bring with you documents?
A. I brought in a couple documents.
Q. Okay. And, were these documents you reviewed documents that were kept in the ordinary course of business at Henry Schein?
A. Yes, sir.
Q. Were you asked to produce documents from your own files months ago in response to discovery requests in this case?
A. Absolutely.
Q. And, were the documents you brought with you provided at that time?
A. Yes.
Q. So, there was nothing new that you brought to the table yesterday?
A. No, sir.
Q. Okay. Thank you.
And, in reviewing the documents, was there anything that you reviewed that was new to you that you hadn't seen

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before, don't believe was in your custody and control?
A. There was some documents prior to my joining Henry Schein in 2013.
Q. And, did you review any testimony in this case?
A. No.
Q. Do you know Shaun Abreu?
A. I do.
Q. And you know that Shaun Abreu testified in this case?
A. I do.
Q. Did you talk to Shaun about his testimony?
A. I talked to him, but he didn't disclose anything about the testimony. He said it was a long day.
Q. Okay. And, did you ever see or review any of the written transcript of his testimony?
A. No, sir.
Q. Did anyone tell you the substance of his testimony?
A. No, sir.

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Q. Other than the documents that counsel showed you and the documents you brought to the meeting yesterday, is there anything else that you reviewed in anticipation or preparation for --
A. No, sir.
MR. McDONALD: Just be sure to let him finish his question.
THE WITNESS: I'm sorry.
MR. McDONALD: That's okay.
BY MR. MIGLIORI:
Q. Okay. Let me go over your background a little bit first, and then we'll get into Henry Schein.
I don't -- do you have a current curriculum vitae?
A. I do.
Q. Is that something you provided to counsel?
A. I don't recall.
MR. MIGLIORI: Okay. I don't have a copy.
And, counsel, if you do and have produced it, I don't -- I don't have

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it.
MR. McDONALD: He didn't.
MR. MIGLIORI: Okay. Well, we'll go from here and see what happens.
(Peacock Exhibit 2, LinkedIn profile of Jeff Peacock, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. Best I can do is what you put online on LinkedIn.
I show you Exhibit Number 2. It's obviously very superficial, but let's go over it.
Could you go over your educational background?
A. Sure.
Q. So, you went to Cornell University undergraduate?
A. Correct.
Q. And graduated in 1979?
A. Yes.
Q. With a bachelor of science degree in animal physiology?

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A. Correct.
Q. And then it looks like you had a four-year master's program in medical biology and immunology?
A. It was at night, so it took four years to get, but I was working at the time.
Q. And, what is LIU Post?
A. Long Island University.
Q. Okay.
A. C.W. Post campus.
Q. Got you.
When you graduated in 1990, you were -- you said you were working at the time?
A. Yes, sir.
Q. And, I'm looking at this. It seems that you worked at Memorial Sloan-Kettering Cancer Center from 1985 to 1986?
A. That's correct.
Q. And, what were you doing there?
A. I was the manager of the epidermal growth factor receptor

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laboratory that was run by Dr. John Mendelsohn, and we were doing research on monoclonal antibodies for cancer therapies, and a product that we worked on actually became a drug called Erbitux.
Q. Okay.
A. Which is sold by Bristol-Meyers.
Q. Do you think the Israelis have found a cure?
A. I hope so.
Q. Sounds like they're optimistic.
That's the kind of work you were doing though?
A. Yes.
Q. Research on medications?
A. Yeah.
I was -- prior to that, I had two other jobs. I was working in research doing, you know, monoclonal antibody development, looking at, you know, different bacterial infections, means to detect them with monoclonal antibodies, and that was the --
Q. Were you doing any work at this

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time on controlled substances?
A. No.
Q. After that, there's a reference to EZEM.
What is that?
A. It was a pharmaceutical medical device company.
Q. And, what did you do for them?
A. I did a lot for them. So, I had multiple -- multiple jobs. I came as a kind of an immunochemist when I was working in their research laboratory. We started the department there called Enteric Products where we commercialized the protein from the Baylor College of Medicine, and it was for detection of a bacteria called Helicobacter pylori. So we had kind of spun off part of the business, and we ran an incubator out at Stony Brook University. Relatively small staff which we over the years built up when but we started to commercialize this product, put it through the FDA, and, you know, sold it to major laboratories like

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Quest Laboratories, Quest Diagnostics.
Q. So, is it fair to say you were heavily involved in the research and development and regulatory process for new drugs?
A. This was a diagnostic, so it wasn't a drug.
Q. Okay. It was a --
A. Yeah, it was a diagnostic.
After that, so, I was there from, you know, '86 to about 2000. There was a new president brought on, and I was brought in to the corporate fold where I did -- ran clinical trials, quality control, quality assurance.
Q. That started in 2000?
A. That started in 2000.
Q. Same company though?
A. Same company.
Q. And that company is based in Lake Success, New York?
A. It's closed now. We were purchased in 2008.
Q. By?

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A. By Bracco Diagnostics. It's the next company on the list.
And I was --
Q. Before we leave EZEM though.
At any time during your 21 years there, did you work in any way with controlled substances or opioids?
A. No.
Q. The company was bought out in 2008.
What did your responsibilities become?
What was the name of the company?
A. The company was Bracco Diagnostics.
Q. Okay. And, what, if any, additional responsibilities did you have?
A. So, in that role, I took on the VP of operations, and in that role I was overseeing the manufacturing of some of the contract manufactured pharmaceuticals, as well as some of the -- we -- EZEM made barium products, barium sulphate for

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swallows, enemas, things like that. And then in that role, I took over the manufacturing responsibilities, 'cause of my prior experience, of the facility that we had in Montreal, as well as several contract manufacturers throughout the U.S.

Q. Okay. And --

A. Both in devices and drugs.

I'm sorry.

Q. That was going to be my next question.

On the drug side, did you have any direct involvement with agencies, FDA, DEA?

A. Yes.

Q. What kind of involvement did you have?

A. Well, we were audited fairly regularly. There was a -- you know, with the device and the drug business, it was almost every year we were being audited.

Q. Okay. Any controlled substances?

A. No, sir.

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Q. You stayed there for how long?

A. Five years.

Q. And then what happened?

A. Then I was recruited to come to Schein. The prince -- the Bracco Diagnostics was based out of Princeton. I was commuting from Long Island to Princeton and did that for five years, and then I was recruited and I came to Henry Schein.

Q. Who recruited you?

A. I don't know the name of the recruiting firm. It's a Long Island company. APR, something like that.

I'm sorry I don't know the name.

Q. And, into what position did they recruit you?

A. I was the VP of Quality Assurance and Regulatory Affairs.

MR. MIGLIORI: I'm going to show you what I'm just going to mark as Exhibit 3.

[redacted]

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[redacted]

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[redacted]

Q. How did you get educated, or how did you educate yourself to understand your responsibilities in your new position

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relative to controlled substances at Henry Schein?
A. So, there was initially training with the team. So we -- we would meet and go over what the processes were. Generally it was on-the-job training.
Q. Okay. And, who were the folks, when you got there, that had the knowledge about the Controlled Substances Act and the obligations of Henry Schein relative to controlled substances that you learned from on the job?
A. Yeah. So, primarily would be Sergio Tejeda, who had been with the company for a long time prior to my coming on.
Q. Okay. And, we'll go through, but he now reports to you, right?
A. Correct.
Q. Okay. Who else?
A. And his team. So there were people that had been, you know, reviewers, verifiers, et cetera, for a number of years.

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Q. And, as I understand the structure of Henry Schein, there is the Regulatory Department and then there is a Verifications Department. Those are two separate departments, but they have some overlap in some of their responsibilities.
Is that a fair statement?
A. Yeah. It's a shared process, right, so.
Q. But Verifications, for example, didn't report to Regulatory?
A. No.
Q. That is they are their own department, and to the extent that there was overlap, there was collaboration between those two departments?
A. Yes.
Q. And, at no point in this process did you have oversight obligations or responsibilities towards Shaun Abreu or those that worked for him in Verifications, correct?
A. That is correct.
Q. Are you aware that Shaun Abreu

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was presented by your company as the person with most knowledge about the suspicious order monitoring programs and the obligations of Henry Schein for controlled substances?
A. I was not aware, no.
Q. Is it, in your view, in your experience, in your on-the-job training, your perception that compliance with the Controlled Substances Act is more of a responsibility of the Verifications Department or of the Regulatory Affairs Department?
A. Could you repeat the question?
Q. Sure.
Compliance and reporting to the DEA, is that a function within Henry Schein of the Regulatory Affairs Department or the Verifications Department?
MR. McDONALD: Object to the form.
A. My opinion is it's a shared responsibility. So, there's functions

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that they do. There is , you know, processes within the team in the electronic reporting, the ARCOS data, et cetera, but then, you know, other additional advising and oversight is with my group.
Q. Okay. Is it fair to say then that the primary responsibility to assure compliance with DEA regulations is with the Regulatory Department, but Verification plays a role in that process?
MR. McDONALD: Object to the form.
A. Yeah, I -- I -- I would agree.
MR. MIGLIORI: Okay. Let me show you Exhibit Number 4.

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That's you, correct?
A. That is correct.
Q. Do you remember giving this presentation?
A. Yes, sir.
Q. And, who had you given it to?
A. My immediate boss.
Q. Which was who at the time?
A. Walter Siegel.
Q. And, what was his title?

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A. He's the chief counsel, senior vice-president, chief counsel.
Q. Okay. And, what was the purpose of the presentation?
A. I was just taking on, I don't know exactly the dates, but I had been expanded and promoted for global responsibility. So this was one of the kind of overviews that I did.
Q. Okay. So, at some point, you went from regular -- the vice-president of Regulatory Affairs to the vice-president of Global Quality Assurance and Regulatory Affairs?
A. Yes.
Q. And this would have been some time approximately right after that transition in 2016?
A. I would assume. I --
Q. Okay.
A. -- can't be sure, but --
MR. McDONALD: And, to be clear, Don, looking at your question, he previously -- so we have a clear

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record, because Tejeda was vice-president of Quality Assurance and Regulatory Affairs and then it changed to Global, still Quality Assurance and Regulatory Affairs.
MR. MIGLIORI: Did I --
MR. McDONALD: You skipped Quality Assurance in his initial title.
MR. MIGLIORI: In his initial, fair enough.
A. Actually, he's correct because when I was hired, it was Regulatory Affairs, and I split the department into Quality Assurance and Regulatory Affairs. That was one of the functions that I did.
Q. Wait. Can you repeat that again, he's correct? No, just the "he's correct" part.
A. Yeah, you're correct.
No, but the offer letter was basically for Regulatory Affairs.
Q. Right.
A. And then over the course of, you

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know, a year or so, I broke the department into Quality Assurance and Regulatory Affairs.
Q. I think that's why I pulled that out of my head because we just pulled that out of the letter.
So, you went from the vice-president of Regulatory Affairs and then it became the vice-president of global -- I'm sorry, of Quality Assurance and Regulatory Affairs.
Does trade compliance --
A. That was rolled in, yeah.
Q. Rolled into it as well?
A. Yeah.
Q. And then at some point, you -- they expanded that to not just domestic U.S. responsibilities, but worldwide responsibilities?
A. Global, correct.
Q. And this would have been a presentation now of what's going on both domestically and worldwide?
A. Yes.

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Q. And you were making this presentation to your immediate report, your supervision, correct?
A. Mm-hm.
Q. And, when you say compliance -- you said, sounded like a lawyer. I forget the counsel or something.
Who did you give this to, this presentation?
A. It was chief counsel.
Q. Chief counsel.
So, is that within the Legal Department?
A. Yep.

[redacted]

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[redacted]

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[redacted]

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[redacted]

Q. Okay. So, are there any folks within Regulatory Affairs, other than those listed in this chart?
A. So, I'm a little confused. I apologize.
So, if you go back to are there any? There's some of the DEA auditors were in Indy, Jacksonville and Denver. So we had three of them there.
Q. Okay. You had -- so, you had internal DEA auditors?
A. Yeah, our internal DEA team.
Q. Right.
A. Would perform, you know, your

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customer end audits, site audits.
Q. And, is there a person -- is there a managing person of that team, of the internal --
A. So, Sergio's the ultimate director of that team. There was a manager who was left -- who had left, and then there was a new manager who was brought in.
Q. Okay. Who is the manager that left?
A. Her name was Tina Steffanie-Oak.
Q. Okay. And, who's the one that replaced Tina Steffanie-Oak?
A. His name is Frank O'Regan.
Q. Okay. And, what is the responsibility of the internal DEA team, audit team?
A. So, they work with Verifications when there is any Know Your Customer Due Diligence that needs to be done. They review the files. They review the doctors. They review the questionnaires. They speak to them on occasion, and they

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may visit the site on occasion.
Q. Okay. What roles do they have relative to audits? Is it their own auditing?
When you say DEA audits, are they also responsible for external audits?
A. Yes, of customers.
Q. Okay. Just of customers.
A. They support the managing director of the facilities, the distribution centers.
Q. Right.
A. So, the operations people, they would support the DEA audits when they come to audit us.
Q. Got you.
A. These people would be support for questions, et cetera.
Q. And, so, this department, this -- this department is under Sergio Tejeda within Regulatory Affairs, correct?
A. Correct.
Q. And, from time to time, if Verifications couldn't clear a pended or

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suspicious order, they would seek review from this department?
A. Correct.
Q. And there were times throughout the course, at least of your experience, that those pended orders were cleared and released within the Verifications Department, correct?
A. That is correct.
Q. That is it didn't involve Regulatory Affairs at all?
A. Yes.
Q. Is that still true today? Is that still part of the process?
A. Yes.
MR. MIGLIORI: Is that our phone?
MR. McDONALD: No. It's next door. They just fixed it.
MR. MIGLIORI: Okay.
BY MR. MIGLIORI:
Q. And, can you remember, in the time that you've been there from 2013 to the present, any other people on this team

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just by name, on the -- the internal --
A. You want the name of the people?
Q. Yeah. Just other folks that worked with Tina or Frank.
A. Beverly Butcher, Liam Schemer.
Q. Anyone else that you can think of?
A. There was Pete Schmidt, Nick DeLucia, Glenn Lonnquist. And I believe that's it.
Q. Okay. Did this group meet regularly?
A. Yes.
Q. And, you said they were spread out all over the country, or were they all in Melville?
A. All over -- well, most of them were on -- on their -- different sites.
Q. Okay. And, so, how often would they meet? Was there a regular meeting for them?
A. There was a regularly once-a-month meeting and, you know, there was a lot of interface within the team.

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Q. And, were there minutes of those meetings?
A. Yes.
Q. And, were those minutes --
A. Not all. I can't say all, but certainly some for sure.
Q. And those minutes would be shared with Sergio, or would Sergio be at these meetings as well?
A. Sergio was likely at those meetings.
Q. Okay. And then would you get a monthly report of those meetings?
A. Sometimes I was present at those meetings.
Q. Okay. Were they webinars? Did you link in visually? Was it a phone conference?
A. Phone conference.
Q. Okay. And, was somebody's responsibility to document any of the decisions or concerns or events of the month?
A. I can't say specifically. I

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mean, I -- you know, the minutes I think drove what --
Q. Okay.
A. -- occurred.
Q. And, if you were to ask to see the minutes, where would you go? On what database, what system?
Or would you just call Lydia?
A. I probably would have received them.
Q. Okay. And, so, you would have somewhere in your files a file of the monthly meetings of the DEA Audit Team, correct?
A. Mm-hm.
Q. Yes?
A. Yes.
Q. All right. And that's something that's kept in the ordinary course of your business?
A. Yes.
Q. All right. Any other teams underneath Regulatory Affairs besides this DEA Audit Team?

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A. So, the teams that are listed here, the Andi Tiller's team, she runs the facility in Bastian, Virginia. Gary Tiamsic's team runs what we call the Major Projects.
Q. Okay.
A. So, in 2013, there were two legislations, the Drug Quality Security Act for the FDA for serialization of pharmaceutical products, as well as unique device identification for barcoding and identification of medical devices for counterfeiting, et cetera. So, those are two large initiatives, as you might imagine, and he's the project manager running those projects.
Q. When you say "running the project," is it implementation? Is it lobbying? How -- what role did Gary have?
A. Well, it's a multifunctional. So, you know, we have disciplines and operations. We have IT, et cetera.
So, during the meetings with the vendors sourcing out the solutions that we

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have put in place, discussing negotiated with those vendors for pricing, ultimately managing a budget with myself. You know, I had sign-off authority on it. Writing minutes to the meetings. Making sure that we were on timelines. Being able to report how the progress of the, you know, projects are going 'cause there are certain timelines based on a class of medical devices or who's, you know, the manufacturer or distributors for pharmaceuticals, there were different dates that need to occur. So we wanted to make sure that we had, you know, process in place to meet those deadlines.
Q. Did Major Projects track state-specific obligations in regulations; for example reporting requirements to Boards of Pharmacy and the like?
A. That would be within the Regulatory under Sergio's DEA team.
These were company-wide big projects.
Q. Sure. Okay.

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So, none of them were truly just specific to controlled substances or to a particular drug? It was more universal projects?

A. Yeah. So, I mean, he does other things as well. So, you know, it's part of just running projects, but not the controlled substance part.

Q. Okay. The person for controlled substances is Sergio Tejeda?

A. Correct.

Q. All right. Did this group, Major Projects, have regular meetings and minutes similar to the DEA team?

A. Yes.

Q. All right. And those would be kept in the same --

A. Yes.

Q. -- course as the other minutes that you have?

A. Yes.

Q. Okay. And then, I'm sorry I missed it, but what did Andi Tiller run?

A. She runs the facility in

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Bastian, Virginia. And, you know, it's one of our distribution centers, but it's also a pharmaceutical repackaging. So it's kind of a misnomer, repackaging, but we take packs of ten, we don't open the content, et cetera. We just individualize them for, you know, doctors that only want one out of a package of ten.

Q. So that has its own set of controls and --

A. It's an FDA-regulated process.

Q. And, does Andi have any responsibilities relative to controlled substances or opiates?

A. There are controlled substances in our facility.

Q. Okay. So, that process of repackaging could actually be for opioids as well?

A. No, I don't believe that it's true.

Q. All right. But it's just for other classes?

A. Yes.

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Q. All right. They met regularly, had their own minutes, reported to you as well?

There's a "did" in there that I didn't say.

Is that a group that had a regular meeting, or the repackaging was just simply a function that was managed out of that?

A. So, they reported on a monthly basis on what the progress was and what they had done, any issues like that. They have management review meetings, which, you know, one's happening today.

Q. More operational report?

A. Yeah.

Q. And then the open manager position DEA, what role is that? And who filled it?

A. The person who filled it was Frank O'Regan, as I mentioned before. He had retired from the DEA, and he had joined us to lead the team that does the Know Your Customer surveillance.

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Q. Do you know when he joined to fill that position?

And again, just for orientation, this presentation was created in December 9th of 2016.

A. I don't have the date.

I'm sorry.

Q. But it would be after that --

A. Yes.

Q. -- if my date is correct?

A. Correct.

Q. All right. And, the Know Your Customer components, at that point, you had become aware that, prior to your hiring into Henry Schein, there was a project to get current with the Know Your Customer Due Diligence files at the company, correct?

MR. McDONALD: Object to the form.

A. Yeah, I'm not quite clear.

Prior to my --

Q. There was an observation made, earlier before your arrival at Henry

Page 58

Schein, that 60 percent of the files had no Know Your Customer Due Diligence letters in them.

You were made aware of that when you got there, correct?

A. Maybe not immediately, but at some point, yes.

[redacted]

Page 60

[redacted]

I'm sorry.

Q. All right. We'll show it to you. It's at the end of this. But let me finish this before I leave the document.

So, in terms of the regulatory affairs and quality assurance, this team here is the team, this open position was ultimately taken by Frank O'Regan.

Does he still hold that position?

A. No, he does not.

Q. Did somebody replace him?

A. Somebody is starting on Monday.

Q. Okay. And, when did Frank no longer have this position?

A. December 20th.

Q. Of this -- of 2018?

A. Yes, sir.

Q. And, why did he -- did he leave?

A. He did leave.

Q. And, why did he leave?

A. So, he had applied through the

[redacted]

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state for a -- he took a test about four years ago for a new position, 'cause he had been in the DEA, and four years after it, he had worked for us probably year-and-a-half or two years, I don't remember exactly the time frame, they called him and said you got the job. And he basically wrestled with it and took it.

Q. Okay. And that's with the State of New York?

A. Yes. Nassau County DA, actually.

Q. And, so, is he continuing to work with compliance --

A. Yes.

Q. -- and controlled substances?

A. That's correct.

Q. Is Andi Tiller still in this position?

A. Yes.

Q. How about Gary Tiamsic?

A. Yes.

Q. And Sergio still is as well?

A. Yes.

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[redacted]

Page 63

[redacted]

17 Who is Liz Ernst?
18 A. Liz Ernst is the director at the
19 time, now VP of Regulatory and Quality at
20 Animal Health.
21 Q. Okay. And, so, is this for
22 research and development? Is this for
23 regulatory compliance? What roles would
24 that column have relative to the things

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1 that I'm -- that I'm asking you about, DEA
2 and opioids, if any?
3 A. Well, they're a distributor. So
4 they do have controlled substances.
5 Q. Okay. So, where are they?
6 When you say they're a
7 distributor. Are they a distributor of
8 controlled substances to the animal health
9 business?
10 A. The veterinary business, yes.
11 Q. Okay. And, so, do they have
12 their own set of rules or their own
13 compliance people?
14 A. Yes.
15 Q. And, who is the compliance
16 person within the animal health division?
17 A. Liz Ernst is the lead.
18 Q. Okay. And, do they report to
19 you?
20 A. No.
21 Q. Do they have separate reporting
22 requirements? I mean, do they -- do any
23 of their --
24 MR. MIGLIORI: Strike that.

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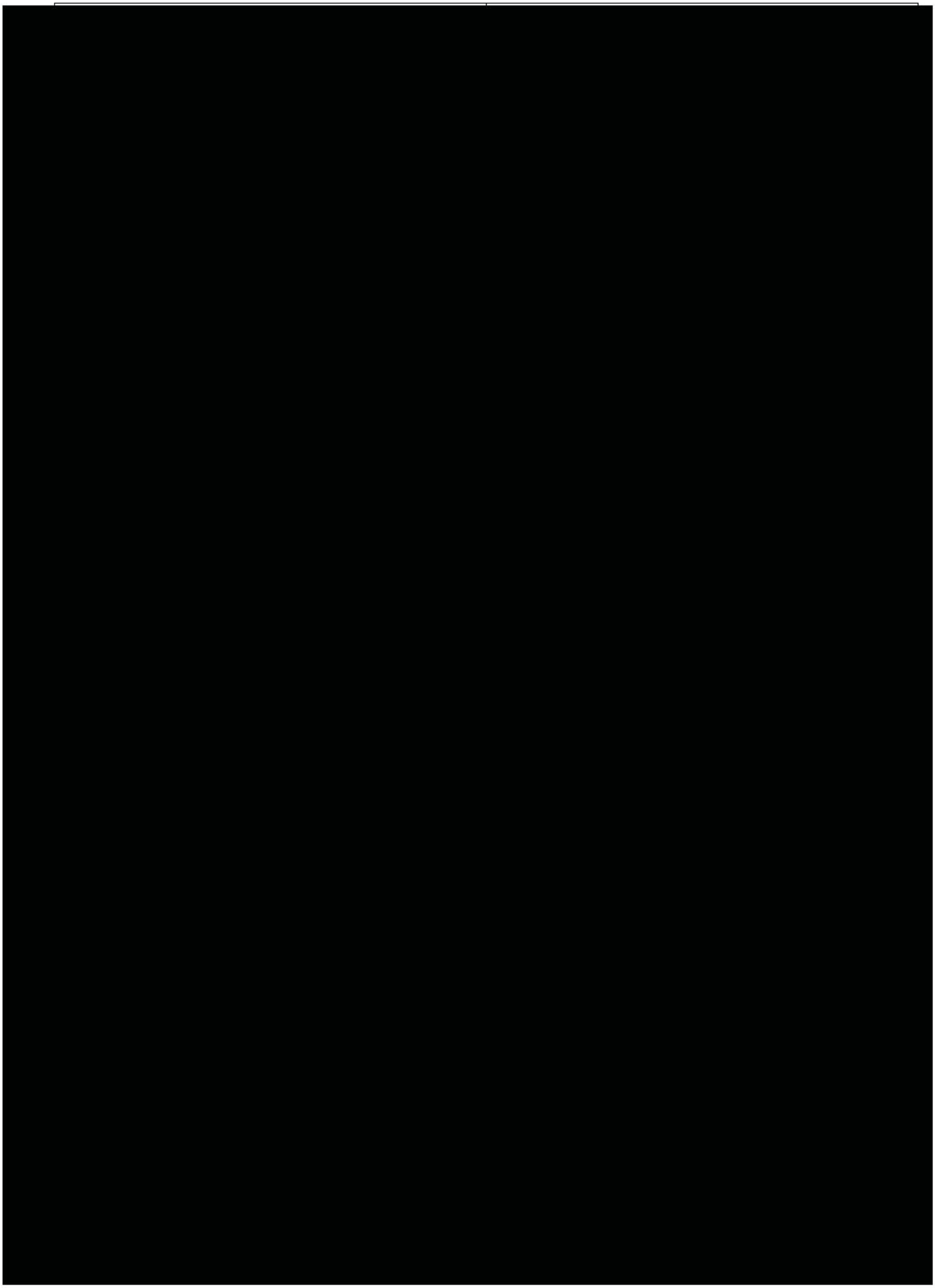
[redacted]



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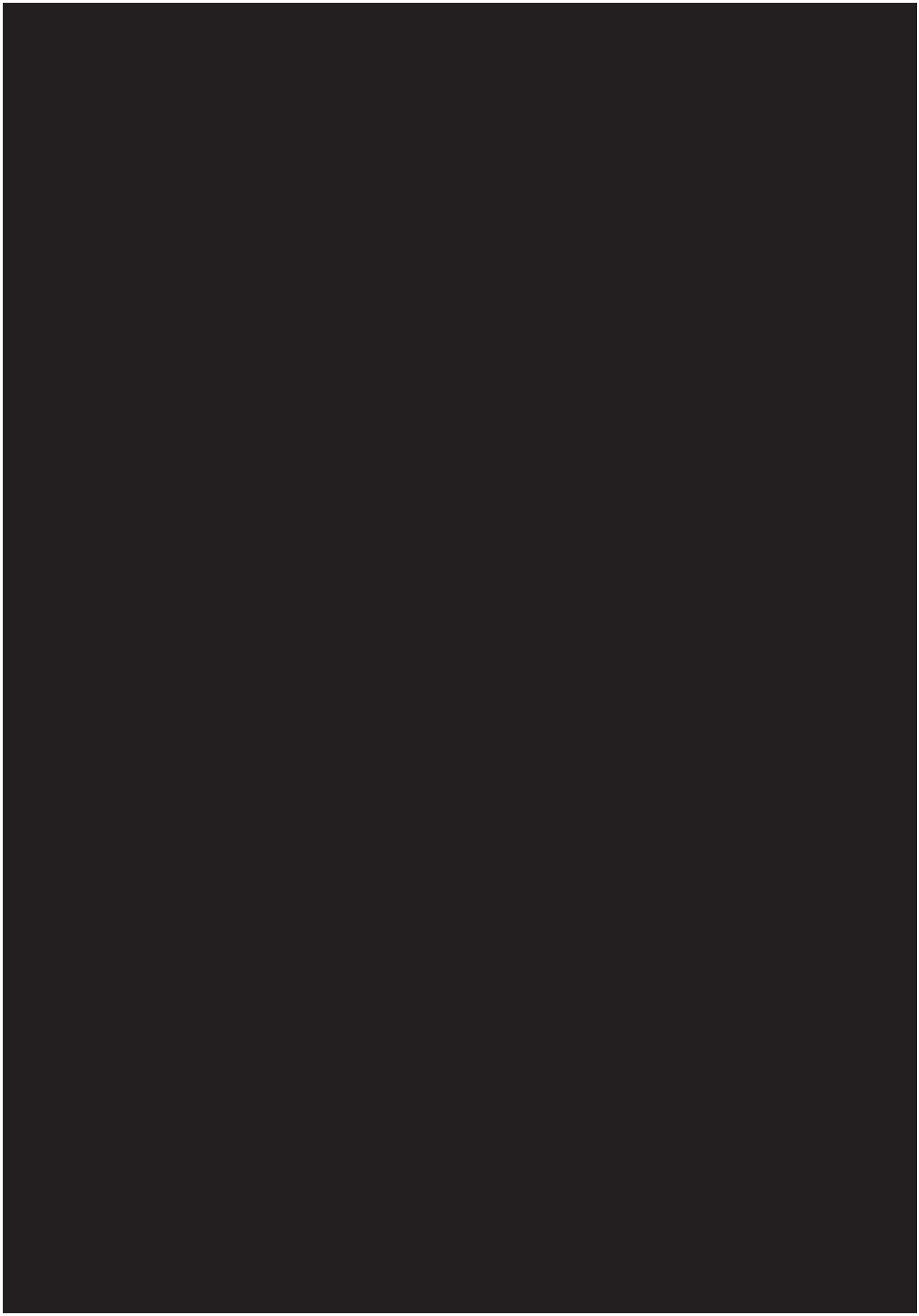

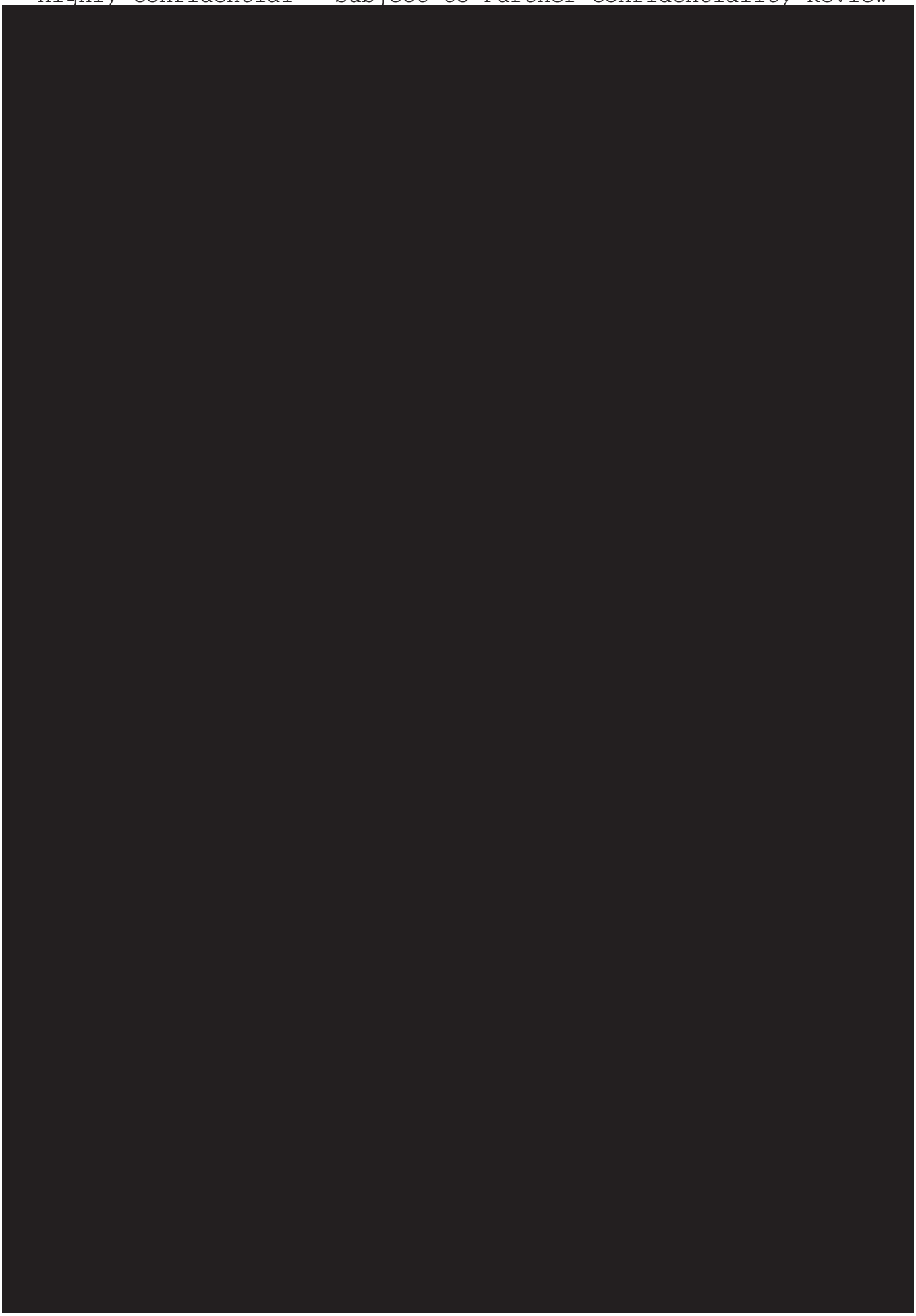

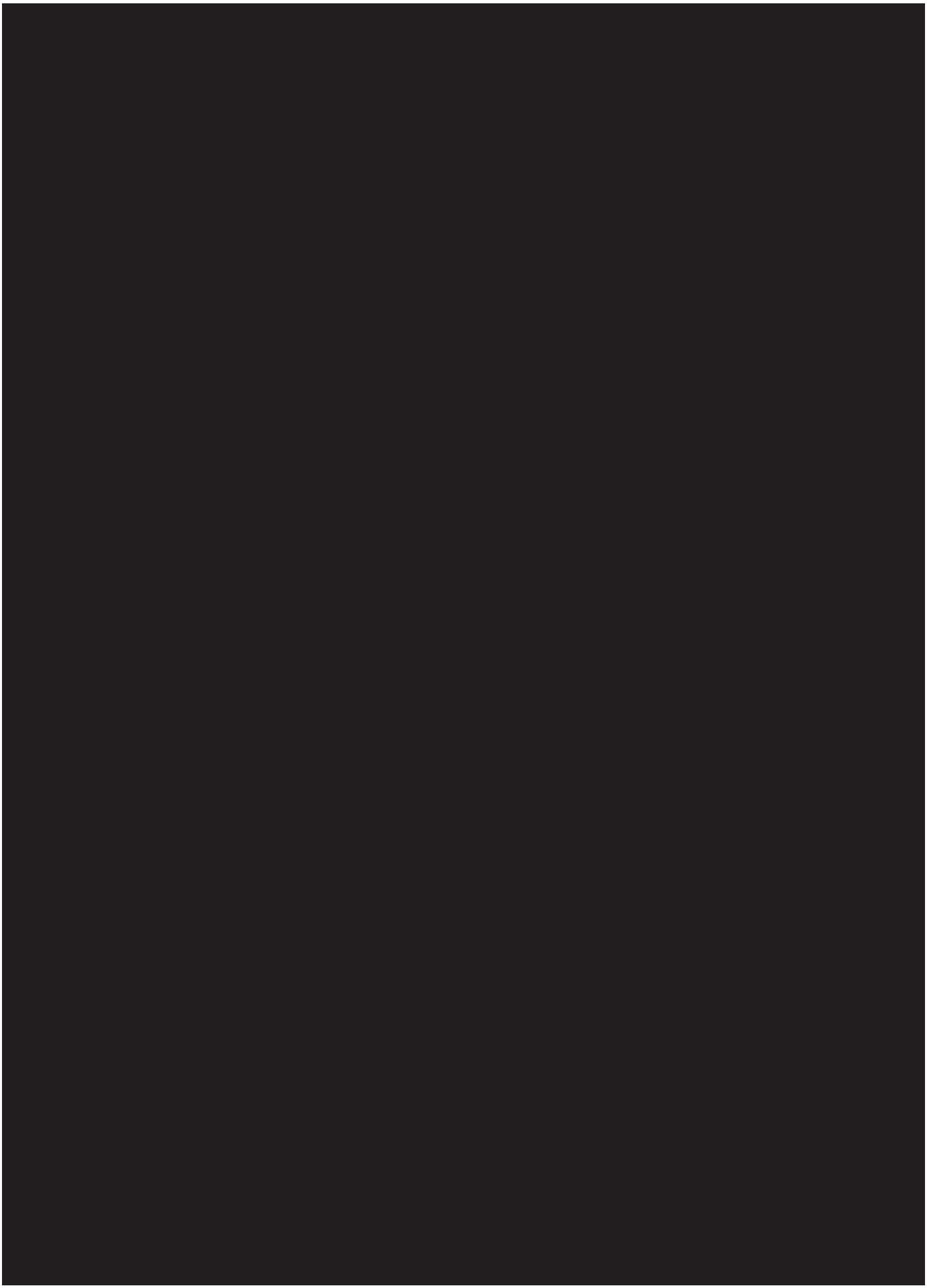

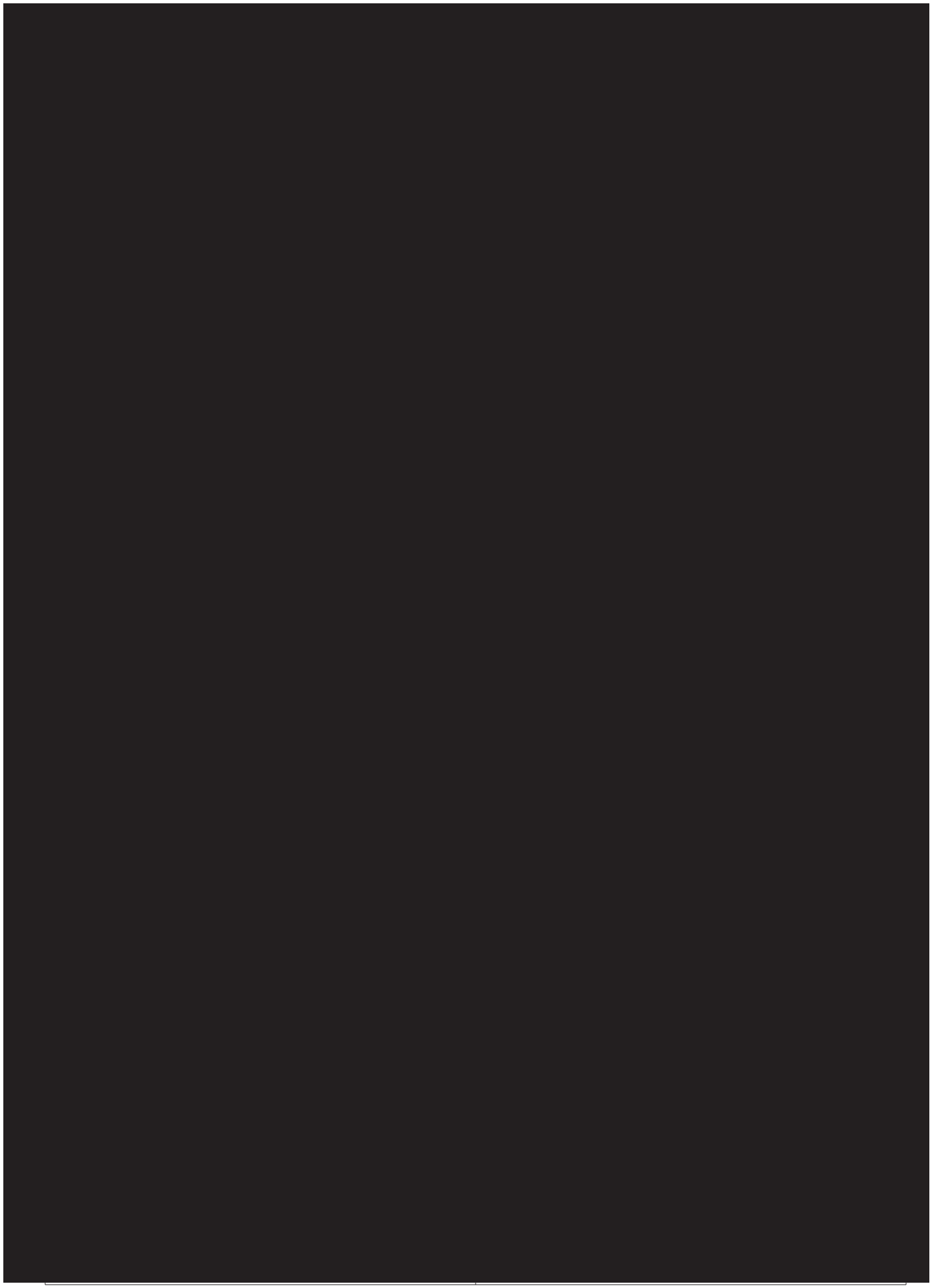

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[redacted]

Page 93

[redacted]

MR. MIGLIORI: Okay. Let's take a break and see if I can get my voice back.

THE VIDEOGRAPHER: All right. The time is 10:29 a.m.

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Going off the record.
(Recess taken.)
THE VIDEOGRAPHER: We are back on the record.
The time is 10:48 a.m.
MR. MIGLIORI: I appreciate the education you gave me on the systems of the company. I want to take a step back and talk about opioids specifically and your obligations on opioids.
Let me show you Exhibit Number 5.
(Peacock Exhibit 5, Title 21 United States Code Annotated Section 801, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. As the vice-president of, among other things, Regulatory Affairs, you agree with me that it's within your department ultimately that you are responsible for compliance with the Controlled Substance Act, correct?

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A. Yes, sir.
Q. And Congress made certain findings about controlled substances, like opioids.
Have you ever seen these before?
MR. McDONALD: In this form?
MR. MIGLIORI: And I'm referring to Exhibit 5 is the -- is the direct Congress findings in the Controlled Substance Act relative to controlled substances.
A. I have not.
Q. Let's see if you understand that this is part of your charge and responsibility within Regulatory Affairs at Henry Schein.
It says Congress --
MS. BORSAY: I'm sorry to interrupt. This is Casteel Borsy with Jones Day on the phone.
I'm having a really difficult time hearing the questions now. I could hear them before the break. So I don't know if you moved or don't

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have a microphone.
MR. MIGLIORI: As I was saying at the break, I developed a cold and my voice is starting to fade.
So, I will try to talk louder, but it -- I feel like I'm screaming. But I'll keep -- there's no way to move the phone. The microphones are built into the table.
MS. BORSAY: Okay. Thank you.
MR. MIGLIORI: But I'll do my best.
BY MR. MIGLIORI:
Q. It says: Congress makes the following findings. Many of the drugs included within the subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.
You understand that to be true for controlled substances?
A. Yes, sir.
Q. The illegal importation, manufacture, distribution or possession of

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improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.
Do you agree with that statement?
A. I do.
Q. Do you believe today that we are in an epidemic with respect to the abuse and misuse of opioids?
A. I --
MR. McDONALD: Object to the form.
Go ahead.
A. I do.
Q. We talked about this a little earlier, but controlled substances have a schedule. Schedule II opioids are, A, the drug or other substance -- are classified as this: The drug or other substance has a high potential for abuse.
You understand that to be true for opioids, correct?
A. That's correct.

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Q. The drug or other substance has a currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions.

Do you appreciate that? Do you agree with that?

A. Accepted medical use, yes.

Q. And that there are severe restrictions on that use, correct?

MR. McDONALD: Object to the form.

If you know, tell him.

A. In terms of -- not -- I don't -- I'm not following what it says.

Q. That there are severe restrictions placed on the use of --

A. In the ability to acquire them?

Q. And distribute them.

A. Yep. Yes.

Q. Okay. The abuse of the drug or other substance may lead to severe psychological or physical dependence.

Do you understand that to be

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part of the classification of a Schedule II drug?

A. Yes, sir.

Q. Is there somebody at Henry Schein that is specifically tasked with overseeing the compliance with Schedule II controlled substances, or is that a general obligation within your department, of all people that work for you?

A. In the Regulatory Department, it's general.

Q. And you understand that you have a registration that is given by the attorney general of the United States to distribute Schedule II controlled substances which requires you to be in compliance with the Controlled Substances Act, correct?

A. That is correct.

Q. And that failure to comply with the Controlled Substances Act could cause, among other things, the suspension or revocation of that DEA registration, correct?

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A. Correct.

Q. And part of that obligation of Henry Schein is to maintain an effective control against diversion of particular controlled substances into other than legitimate medical, scientific and industrial channels.

Do you understand that to be Henry Schein's obligation as a DEA registrant?

A. Yes, sir.

Q. In carrying out that obligation, do you understand that there's a specific provision of the Controlled Substance Act, this is Exhibit Number 6, that requires Henry Schein, as a DEA registrant, to design and operate a system to disclose to the registrant suspicious orders of controlled substances?

Do you understand that is the obligation of Henry Schein to design and operate that system?

A. Yes, sir.

(Peacock Exhibit 6, Title 21

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Code of Federal Regulations Section 1301.74, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. (Reading) The registrant shall inform the field office -- field division office of the administration in his area of suspicious orders when discovered by the registrant.

Do you understand that suspicious orders are to be, and have been since 1971, reported to the DEA field office when they are discovered?

MR. McDONALD: Object to the form.

A. Yes, sir.

Q. (Reading) Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern, and orders of unusual frequency.

Do you understand that to be, in part, the definition of a suspicious order?

MR. McDONALD: Object to the

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form.
A. I do.
Q. So, an order that deviates from a prior order in size, in pattern, or in frequency, by this definition, is presumed suspicious until determined otherwise, correct?
MR. McDONALD: Object to the form.
A. Yes. Yes.
Q. In your review of the historical suspicious ordering monitoring programs of Henry Schein, did you ever learn that the suspicious order monitoring program through 2009, at least, did not measure deviations in frequency or pattern? Did you ever learn that fact?
A. I did not.
Q. Okay.
A. I had no understanding, no.
Q. And, to the extent that that is true or not, that is something you leave to those that were there at the time, correct?

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A. I would have to investigate. Can't really make a determination, sir.
Q. I guess my question is more simple then. You're not the person to either refute that or affirm that statement, correct?
A. That's correct.
Q. Are you aware that in Ohio, in searching for suspicious orders in this case, Henry Schein represented and represents that it found no suspicious orders reported to the DEA from 2009 to the present, that is during the period of time that it had transactional information?
MR. McDONALD: Object to the form; mischaracterizes and misstates the assertions of Henry Schein in this case.
BY MR. MIGLIORI:
Q. Were you aware of that?
MR. McDONALD: Object. Same objection.

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BY MR. MIGLIORI:
Q. You can answer.
A. Could you reclarify or restate, please?
I'm sorry.
Q. Were you asked to help prepare answers to interrogatories in this case, or provide information so that the company could respond to written questions in this case?
A. No, I was not.
Q. Did you review yesterday any of the written responses of the company in this case?
A. No, I did not.
Q. Did they show you that Henry Schein has not produced any suspicious orders for Ohio in this case?
A. No, they had not.
Q. Does it surprise you that there are no suspicious orders reported to the DEA by Henry Schein in this case?
MR. McDONALD: Object to the form.

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A. I would have to see what the ordering patterns are, how much the volumes were. There's no way I could make a determination just without any information, sir.
Q. You would agree with me that if there were no suspicious orders for Ohio from 2009 to present, it would mean that there were no orders that deviated in size, frequency, or pattern, by definition, correct?
MR. McDONALD: Object to the form.
A. So, I think, you know, I'd have to understand what the -- what the scope of this, you know, question is.
So, if we looked at sales volumes, numbers, et cetera, what's the practices are there, what's the percentage of our total sales, et cetera, I'd be better apt to answer that question.
Q. Fair enough. But I'm not asking you about reporting.
I'm just simply saying that if

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there were an order that deviated in size, frequency, or pattern --
A. Yes. Then yes.
Q. -- then it would be a suspicious order, correct?
A. Yes.
Q. And, at the time of discovering that deviation in size, frequency, or pattern, under the obligations that we just read, it would have had to have been reported at the time of discovery, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That's the law, correct?
MR. McDONALD: Object to the form.
He's not a lawyer.
MR. MIGLIORI: He's a Regulatory Affairs vice-president.
MR. McDONALD: And you --
BY MR. MIGLIORI:
Q. What is your understanding of

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your obligation to comply with the DEA as the person in the company worldwide responsible for DEA compliance?
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. Who's not a lawyer.
A. I am not a lawyer.
MR. McDONALD: Hang on. Hang on.
Q. I understand.
MR. McDONALD: Object to the form; vague as to time.
You can give your understanding.
BY MR. MIGLIORI:
Q. Do you understand my question?
A. Yes, I do.
Q. All right.
Do you have an answer?
A. I would say yes.
Q. Okay. So, to make sure we understand it, after all of that interchange between me and your counsel.
MR. McDONALD: There wasn't that much.

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MR. MIGLIORI: Well, I almost forget my own question.
BY MR. MIGLIORI:
Q. The -- the existence of a deviation in size, frequency, or pattern, once discovered, at the time of discovery, is required to be reported to the field office of the DEA under the regulations, correct?
MR. McDONALD: Object to the form.
A. Yes, that's my understanding.
Q. Those regulations, to your understanding, go back to 1971, even before OxyContin was on the market, correct?
MR. McDONALD: Object to the form.
A. Yeah, I -- I was not involved in anything regarded to controlled substance prior to 2013. So I never researched when it officially went into effect.
So I can't answer specifically, but --

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Q. Okay.
(Peacock Exhibit 7, letter dated December 21, 2018 from Locke Lord, with attachment, was marked for identification, as of this date.)
BY MR. MIGLIORI:
Q. I'm going to show you Exhibit Number 7. Your counsel had a concern that I was misrepresenting what Henry Schein said. So I just -- I don't want to put words in your mouth or the company's mouth.
This is Exhibit Number 7. This is a December 21st letter of Locke Lord in this case to the Court, and I'm just going to direct your attention to the bottom where it says "Suspicious Order Reports."
It says: As previously noted, the Schein defendants have searched for and located no suspicious order reports with respect to any of its customers with whom they have transacted business in Summit County, Ohio, for the time period for which they have transactional data.

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Do you see that?
A. I do.
MR. McDONALD: And, to be clear, you previously said the State of Ohio. And this clearly says Summit County.
MR. MIGLIORI: That's why I'm doing this. I'm not being -- I'm trying to clarify the objection.
MR. McDONALD: Awesome.
MR. MIGLIORI: I'm not a hostile person.
MR. McDONALD: I know you're not. You just have a cold.
MR. MIGLIORI: I do have a cold.
MR. McDONALD: I'm trying to help you out.
BY MR. MIGLIORI:
Q. So, in searching all of Summit County, Ohio for the time period that Schein maintains transactional data, Henry Schein has found no suspicious orders which would mean, under the law, that Henry Schein found no deviations in size, frequency, or pattern in any of its

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controlled substance orders for the time period that they had data, correct?
MR. McDONALD: Object to the form.
A. That's what it says. That's correct.
Q. Okay. And, if a deviation in size, frequency or pattern did -- did arise, the obligation would have been at the time of identifying it for Summit County that Schein report that deviation of size, frequency, or pattern of ordering opioids to the field office for Ohio, correct?
MR. McDONALD: Object to the form.
A. Yeah. Again, so back to my comment if it failed to meet the requirements, then yes, it would need to be reported. But, you know, depends on what the volumes were and all the other issues, so.
Q. Sure.
A. There's no data to look at, so.

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Q. This is much more definitional than anything specific. It just simply said if there were a deviation in size, frequency or pattern in any drug, in any opioid distributed by Henry Schein in Summit County, that deviation in size, frequency or pattern, under the Controlled Substance Act, would have had to have been reported at the time it was discovered to the field office of the Drug Enforcement Agency, correct?
MR. McDONALD: Object to the form.
A. Correct.
Q. And, based at least on the exhibit in front of you, Exhibit 7, no such reports to the DEA have been located at Schein for that time period in Summit County, correct?
A. According to this document.
But I have no knowledge of who, what, when, where, why this was done.
Q. Fair enough. Thank you.
Are you familiar with the -- the

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Healthcare Distribution Management Association or its successor, the Healthcare Distribution Association?
A. Yes, sir.
Q. Are you a member of it?
A. Our company is. I've attended a meeting. I get, you know, monthly updates, blog, newsletters, things like that.
Q. Are you provided with minutes or accounts of HDA meetings attended by various Henry Schein employees?
A. May or may not have been. Depends. We go every year. So, generally, somebody in the organization, whether it's in regulatory or others, we've had, you know, many -- many different people may have attended.
Q. Is there somebody at Henry Schein who serves on the board, to your knowledge?
A. Vaguely familiar, but I couldn't name the person, sir.
Q. Okay. But you understand

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that -- that that is the trade association for distributors of -- of pharmaceuticals, including controlled substances, correct?
A. That's correct.
Q. And Henry Schein is one such distributor, correct?
A. That is correct.
Q. Other members include manufacturers of controlled substances, correct? Do you know that?
A. I don't know for sure.
Q. All right. And relative to the

[redacted]

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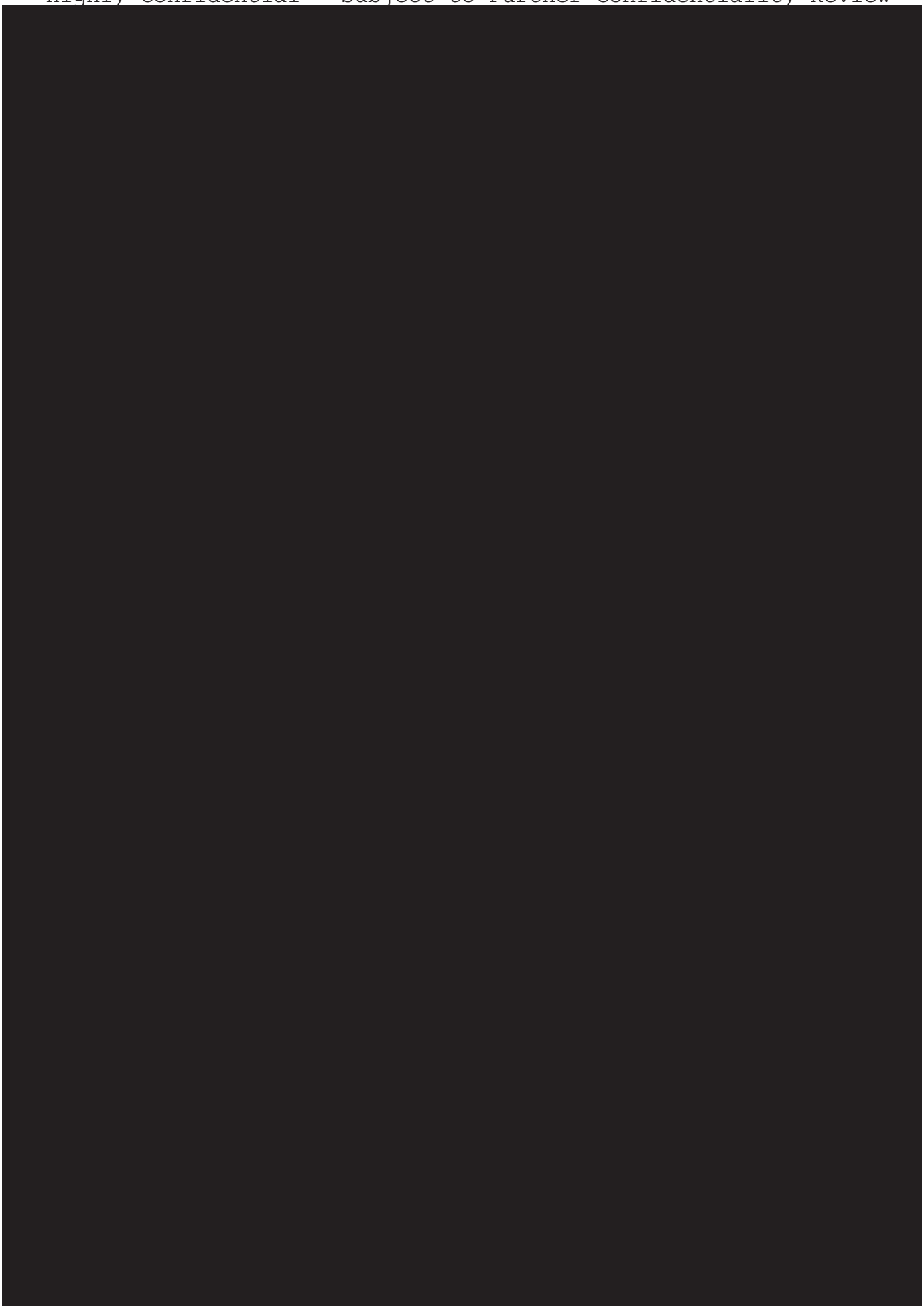
[redacted]

Page 116

[redacted]

Page 117

[redacted]



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Q. They should review the information carefully and, where appropriate, verify it.
That's what your Verifications Department would do, correct?
A. Yes.
Q. Independently investigate the potential customer.
That's an important part of due diligence, correct?
A. Yes.
Q. And the -- when we refer to Know Your Customer Due Diligence, that is a component part of your obligation to

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comply with DEA regulations, correct?
MR. McDONALD: Objection.
BY MR. MIGLIORI:
Q. That is the Know Your Customer obligation exists beyond identifying changes or deviations in size, frequency, and pattern, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Do you understand my question?
A. Yeah. I'm trying to relate it to what the, you know-
Q. I could break it down.
A. Yeah, please.
I'm sorry. I'm getting stuck on semantics here.
Q. Know Your Customer is an obligation that you have to be compliant with DEA even before you supply the first opioid or controlled substance to that customer, correct?
MR. McDONALD: Object.
A. Yes.

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MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. In other words, it's not driven or triggered only by a deviation in size or frequency or pattern order. It's triggered by your obligation as a DEA registrant who will supply or intends to supply controlled substances to that customer, correct?
MR. McDONALD: Object to the form.
A. Yeah. I'm not a lawyer. I mean, at the end of the day, I believe you're correct.
Q. Right. And I'm asking these questions in your role as a reg -- as the vice-president of Regulatory Affairs, not as a lawyer.
So, to the extent you can answer it as a vice-president of Regulatory Affairs and compliance with DEA, from that perspective, that's all I'm asking.
A. Okay.

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Q. So, the Know Your Customer requirement starts as you onboard a new client, right?
MR. McDONALD: Object to the form.
A. Yes. Verifications of licensing, et cetera is part of the process.
Q. And sometimes it's a site visit to see what kind of -- what kind of customers might be in the waiting rooms of the -- either the dispensary or the doctor's office, correct?
A. I mean, there's many forms. I don't do those audits, so I really can't speak to what the specifics of the actions are.
Q. Well, you gave a couple examples recently.
You're familiar with certain red flag items are for --
A. Yeah.
Q. -- Know Your Customer Due Diligence, correct?

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A. Yes, sir.
Q. Some of them involve is the patient paying with cash or insurance.
That's one red flag issue, correct?
A. Yes.
Q. Cars in parking lots with out-of-state license plates is another red flag issue, right?
A. It would appear to be, sure.
Q. And a doctor that orders a disproportionate amount of controlled substances to non-controlled substances raises a red flag concern that should be investigated, correct?
A. You know, would depend on the circumstance. A pain clinic, maybe not.
So, it depends on what the circumstance of what the practice is. That would also be considered.
With the license plate issue, it depends on if they're on the border of someplace. That might have some --
Q. Henry Schein has --

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A. It's a variable.
Q. I'm sorry.
Henry Schein has a due diligence form that it sends to all of its customers, correct?
A. That is correct.
Q. And when it discovered that 60 percent of them didn't have this form, this process that you've been reporting on is to get that form out to the customers and get that feedback from the customers about various things, including where their office is, what kind of practice they have, what types of controlled substances they -- what percentage of controlled substances they use, et cetera, correct? Those are different elements of your --
A. Of the questionnaire, yes. Some of that information would have already been captured on the customer setup form in the JDEwards that would allow us to, you know, ship the product.
Q. And, so, that -- those are the

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different types of information that are part of your ongoing consistent obligation to know your customer, not just those that are triggered by a deviation in size, frequency and pattern of -- of order, correct?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. That's an ongoing obligation?
MR. McDONALD: Object to the form.
A. Yes. It's part of what we do. Yes.
Q. Okay. This HDMA guidance actually gives a bunch of questionnaire suggestions.
Do you see it here on the bottom of page '616?
A. Yes.
Q. It talks about the business background and the customer base and the average number of prescriptions filled each day.

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You don't ever recall getting this kind of guidance in -- at Henry Schein when you started in this position?
A. So, the process of some of these were in place at the time.
Q. Okay.
A. So, it was a review of what the practices were. That's what I was basically my job -- on-the-job training was about.
Q. Okay. And, when you got there, you were aware that Henry Schein in 2013 was somewhat behind on the Know Your Customer Due Diligence side of compliance, and it was part of your job to get caught up, correct?
MR. McDONALD: Object to the form.
A. I'm not exactly sure when I learned of the -- the backlog, but ultimately, yes.
Q. And that was one of the -- one of the measures, even for your own performance within the company, was your

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ability to sort of rectify this problem that pre-existed you at the company, correct?
A. Correct.
Q. All right. And today, as of today, has that now been caught up, to your knowledge?
A. To my knowledge, yes.
Q. Okay. And is that process of catching up on all that backlog due diligence, was that something that was primarily the responsibility of the Verifications Department and Shaun Abreu's side of things?
A. Primarily.
Q. But in order to be compliant, in order for your department to report compliance with DEA, that's something that you would have had a sort of joint responsibility for --
A. That's correct.
Q. -- at least accountability for, correct?
A. That's correct.

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[redacted]

To your knowledge, does Henry Schein check with those boards prior to

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onboarding a new client?
A. In relate to both of them would be their licenses. If there's any issues with licenses, we would certainly do that. I'm not aware that we check specifically and call and say is Dr. Jones okay.
Q. Okay. And I think Mr. Abreu talked about this, but the verification process would be to make sure that the license is in good standing?
A. Right.
Q. And that at Henry Schein is performed online as an online source?
A. An automatic source, yes.
Q. Do you check with any disciplinary counsel or medical licensure board of doctors, to your knowledge?
MR. McDONALD: Object to the form.
A. I'm not aware. Not that close to that process.
Q. What about criminal background, do you do any criminal background check on doctors that you're supplying to?

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A. Not to my knowledge.
Q. And, as you understand it today,

[redacted]

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Do you agree that the form should change over time?
A. Continuous improvement is always what everyone should live by in quality regulatory.

Page 136

Q. And, do you agree that the performance and results of all steps in a customer review process should be fully documented as to each potential customer and such documentation should be obtained in the appropriate file?
A. The records are important. Absolutely.
Q. In fact, there's an adage that if it's not written down and recorded, it doesn't exist.
Correct?
A. Yeah.
Q. And that is true in regulatory compliance, correct?
A. That is correct.
Q. The distributor may include provisions for notification of state and federal authorities of an unlawful activity identified under the Know Your Customer Due Diligence as required by local, state, or federal law.
You would agree with me that that's an important component part. It's

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not just enough to identify such potential activity, but to share it with local law enforcement and DEA, correct?
A. I agree --
MR. McDONALD: Hang on.
I object to the form.
You need to pause, okay.
THE WITNESS: I'm sorry.
MR. McDONALD: That's okay.
BY MR. MIGLIORI:
Q. Are you involved at all in the establishment, development of any of the thresholds or algorithms used to identify changes or deviations in size, pattern, or frequency of orders by your customers?
A. I was not involved, no.
Q. To the extent that the automization or the re-tuning of the system happened or occurred, in terms of the specifics of that change, that's not something you would be directly involved in, correct?
A. I was not, no.
Q. It's fair to say that that's

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something ultimately your department's responsible for, but you relied on Sergio Tejeda for the entire time that you've held this position at Henry Schein, to make sure that the algorithms and the assumptions of the algorithms were appropriate and consistent with DEA regulations, correct?

A. It wasn't Sergio. It was the outside consultants that we hired. So there was outside, you know, groups that came in and did the re-tuning of the algorithms.

Q. I have some of those here, and I'll show them to you.

But, the outside consultants that came in, they -- they proposed the changes, but they would have to be approved at Henry Schein first, correct?

A. Mm-hm.

Q. Yes?

A. Yes.

Q. How -- how does that work at Henry Schein? Who would receive the

Page 139

certain Dendrite, Buzzeo, what was the other one, Hyman Phelps, who would receive those recommendations at Henry Schein and make a decision to-go and no-go on a particular recommendation?

A. So, depending on the circumstance, could be either the Customer Verifications and Sergio would come together, see what was, you know, needed, put together a statement of work, reach out to the consultant, have the consultant come in and then they would agree, and I probably would sign off on the final purchase order for the -- for the service.

Q. But, do you know how the algorithms work? Have you ever --

A. I have not dealt into how the algorithms work.

Q. So you will rely on Sergio and Shaun, those are the -- that's Regulatory Affairs and Verifications, you would rely on them for their input on how a threshold was established, correct?

A. That is correct.

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Q. Even though you have a science background and research and development background, at Henry Schein you don't -- you have not gotten into the specifics of suspicious order monitoring design implementation and refinement, correct? That's not -- you sign off on it, but you don't know at any given moment what the actual algorithm is or how it works, correct?

A. That is correct.

Q. And, if I were to go talk to the person that knew the most about it, not outside the company, but within the company, who would that be?

A. I'd say a combination of Sergio and Shaun.

Q. Okay. That may have saved you a lot of time today.

A. Fact.

Q. And I appreciate it. That's all I'm trying to get to is facts.

So, to the extent the HDMA provided guidances on what is a proper way

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to set a threshold or how far back in time to look at a dispensing history, those aren't parameters, those aren't data points that you have any particularized knowledge about or -- or command of, correct?

A. Yes, that's correct.

Q. And, what about the -- when, in fact, an order is in your system pended or identified or flagged, do you have any -- do you play any role in establishing what causes that event to -- to get investigated? Do you --

A. Me personally, no.

Q. Okay.

A. I do not.

Q. So, that's all sort of the functional operational part of your department that ultimately you have to rely upon Sergio and Shaun Abreu to -- to advise you of, make recommendations for your sign-off?

A. Yeah. And Frank O'Regan when he was with us also. I mean, he's, you know,

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previously a DEA investigator. So he was adding a lot of value in terms of training and bringing the staff up to speed and making determinations. He was making those determinations.

Q. Okay. So, are those the three sort of top people that you rely on for establishment of thresholds: Frank, Shaun and Sergio?

A. The threshold for?

Q. For identification of suspicious orders by size, frequency or pattern.

MR. McDONALD: And you're referring to internally, right?

MR. MIGLIORI: Yeah.

A. Yeah, so, the algorithm is based on the ERP system would initially set that. How that was set would be -- I don't think Frank was involved, maybe later, but mostly Shaun and Sergio.

Q. You understand that some -- so, some companies may set a threshold based on three months of prescribing history, while others may use 24 months. You

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understand that -- that there are different decisions that need to be made in terms of establishing a threshold?

A. Sure.

Q. And, in terms of what decisions are made relative to those parameters, is that something that Frank and Sergio and Shaun would do, or is that something you would be a part of deciding?

A. I was not part of deciding, but I believe it would come from the consultants and what they felt and were informing us were, like, industry standards.

Q. Okay. So, so it's fair to say when it comes to the specifics of algorithms and automated suspicious order monitoring, you relied upon the outside consultants and internally you relied upon the input from Frank O'Regan, Sergio Tejeda, and Shaun Abreu?

A. Correct.

Q. And based on that input from those four difference sources, and from

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time to time others, Tina, you ultimately would be the person that signed off on it, correct?

A. That's correct.

Q. But you would not, at that point, educate yourself to the level of understanding the inner workings of it. You were relying on this advice, correct?

A. That is correct.

[redacted]

Q. But controlled substance, you agree with me, has a heightened sensitivity within the company. That

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is --

A. Right.

Q. -- it is a highly restricted area of distribution and the potential for abuse and misuse is, by definition, extremely high, correct?

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. As a Schedule II drug, correct?

MR. McDONALD: Object to the form.

A. A Schedule II, yes.

Q. It is recommended that employee training include a review of DEA rules and regulations.

Do you have today an employee training for those that work within Regulatory Affairs and within Verifications of the DEA rules and regulations?

And by training, I'm talking about formal training.

A. Could you define formal

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training?
Q. Classroom, didactic.
A. We've had classroom training.
Q. What -- where and who gave that training?
A. Ken Romeo, one of our premier -- prior employees, and we had a session with the HDA and some others a little over a year ago. I believe it was in October of '17.
Q. All right. When did Ken Romeo give a presentation?
A. Probably in -- I don't know for sure. I'm sorry.
Q. Were you at the company at the time?
A. I was, yes.
Q. So it's some time after July of 2013?
A. Yes.
Q. Were you there?
A. I was. For part -- part of it. Not -- it was a two-day training. So part of the sessions I was there. Maybe two or

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three hours of it.
Q. And, was it required?
A. Customer Verifications and the staff, yes.
Q. Was it required of anybody in Regulatory Affairs?
A. The staff in Regulatory Affairs.
Q. Okay.
A. That team, yes.
Q. And, when you say Verifications, that's Shaun and the folks that work for him, correct?
A. Correct.
Q. Okay. Was there a Power Point presentation of some sort, or --
A. Yeah, there were some Power Point presentations, I believe, yes.
Q. Did you present at all?
A. I introduced it. That's all.
Q. Other than that one presentation, do you recall any other -- set aside the HDA for a second.
Do you recall any other internal or recurrent Henry Schein training on DEA

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rules and regulations?
A. So, we have a monthly, you know, call, and there are discussions about the rules and regulations.
Q. Okay.
A. We referred to that earlier today.
Q. So, that's the -- those -- those generally have minutes and those minutes are kept on the share file?
A. Correct.
Q. And that's attended by Verifications and by Regulatory Affairs?
A. Not Verifications.
Q. Just Regulatory Affairs?
A. Yes.
Q. So, those monthly calls, to the extent they have DEA rules and regulations trainings, would only be for Regulatory Affairs folks, not for Shaun Abreu and the Verifications folks?
A. That's correct.
Q. Anything else that you can recall?

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A. I cannot.
Q. Who were some of the people that you know on the front line of Verifications that would be making the decisions today about whether an order should be further investigated, somehow it got pended automatically and requires further due diligence? Do you know any of those folks?
A. I know Shaun obviously for a long time and Lisa Matalon, who's his supervisor. I've met a few of the individuals, but I don't know them specifically by name or, you know.
Q. And Regulatory Affairs does not have any regular systematic training of those frontline staff members or Verification Team members in terms of their obligations under the Controlled Substance Act, correct?
A. I'm not aware.
Q. Okay. And then tell me about this October of 2017 HDA presentation.
A. So, again, we had a two-day

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meeting. Several individuals from the HDA came to visit. We had several, you know, guest speakers during the -- the process. And again, we addressed some of the ongoing regulations, some of the issues that they brought to our attention or they were, you know, giving us information on. And the staff from around the country flew in to be there.

Q. Is this in the aftermath of the Masters Pharmaceutical decision?

A. The Masters was discussed at that meeting, yes.

Q. And, was this sort of a industry advisory about the implications of what Masters means for day-to-day operation within the distributors?

A. Could you repeat the question?

Q. Sure.

Did HDA request to hold this presentation?

A. No. It was our -- it was our training and we invited them to speak on, you know, current topics, et cetera.

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Q. And the current topic of the end of 2017 was a recent decision in the Masters Pharmaceutical case, correct?

A. That is correct.

Q. And the implications of that decision in terms of obligations and compliance with the Controlled Substances Act as a distributor, correct?

A. Yes, sir.

Q. And one of the key issues in that decision was when to halt an order from shipment and when to ship, correct?

MR. McDONALD: Object to the form.

A. Yes. That's my understanding.

Q. Do you remember any of the -- the representations made of the HDA at that meeting in terms of the Masters decision, its implications, et cetera?

A. I think it was evolving at the time. So I don't know the specifics of what they presented. I'd have to see the presentations again, et cetera. But, you know, obviously this was something that

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they felt was becoming a big topic for discussion and potentially implementation.

Q. Okay. Did -- and when you say folks from all over the country came to attend --

A. Our team.

Q. Okay.

A. So our team in the different DCs.

Q. And that would be Regulatory Affairs?

A. Yes.

Q. Do you know if Verifications attended?

A. Management. Shaun was there, I'm sure.

Q. Okay. But the -- the frontline people that are actually getting the pended orders and doing -- sending out the letters, to your recollection, they didn't attend that training, correct?

MR. McDONALD: Object to the form.

A. Can't recall.

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Q. Okay. And, as a result of the Masters decision and/or this HDA presentation in the fall of 2017, did Henry Schein change any of its standard operating procedures or suspicious mon -- order monitoring systems?

A. We were evolving too, yes.

Q. So, what came of that? That is, what, if anything, do you attribute to a change in the Henry Schein compliance with the Controlled Substances Act as a result of the Masters decision, if any?

A. The decision of Masters was evaluated for a period of time. HDA was solidifying the discussions, and then we began to implement the process through the IT teams, et cetera. So, the implication was that orders that had pended, all of those were orders would be immediately reported to the DEA.

Q. Because they were, at the time they were discovered, deviations in size, frequency and pattern, correct?

A. Yes.

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MR. MIGLIORI: Exhibit Number 9.
(Peacock Exhibit 9, interoffice memorandum dated December 23, 2013, Bates No. HSI-MDL-00622244 to 00422250, was marked for identification, as of this date.)
BY MR. MIGLIORI:

[redacted]

You said Ken Romeo was the guy that gave a presentation of some sort, or a training of some sort to Regulatory Affairs, correct?
A. That is correct. He was on the team at the time.
Q. So, what was Ken Romeo's job title at this point in 2013?
A. I don't know exactly. He was a Regulatory Affairs specialist or senior specialist, something of that nature.
Q. Okay. But he worked underneath Sergio Tejeda?

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A. Tina and then Sergio at that time, yes.
Q. So he was part of the DEA Audit Team?
A. Correct.
Q. And, in December of 2013, who's Jim Mullins?
A. Jim Mullins, he's in charge of operations, and he was over Shaun Abreu.

[redacted]

Q. And this is certainly before the Masters Pharmaceutical decision came out in 2017, correct?
A. Correct.
Q. All right. Did you review this in preparation for today?

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A. I read it yesterday, yes.
Q. All right. And, do you recall, having read this yesterday, do you recall the meeting surrounding this?
A. Vaguely

[redacted]

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[redacted]

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Page 182

[redacted]

Page 183

[redacted]

Do you know if that was ever done?
A. I believe it was, sir.
Q. Okay. And, who would have implemented that? That is, technically, who would have verified that? Who would have implemented it and then quality controlled it that it was working at the company?
A. I think a combination of the IT teams and potentially Regulatory and Customer Verifications, but all of the activities would be driven by the IT team

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in terms of, you know, managing the systems for that.
Q. And who, at this time in 2013, when this was being reported to you, who would have been the IT person that, if you recall?
A. Liaison currently for Regulatory is Gavin D'Souza, and I would venture that he was probably it back then.
Q. Okay. And, who would then -- who would he have interacted with within your department?
A. Sergio.
Q. Sergio, okay

[redacted]

ons

That's something you said FileMaker Pro addressed in 2018, correct? The interactive?
A. That was the ultimate goal. I think that there was other enhancements prior to this.

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Q. You can't recall any of the specifics?
A. No.
Q. All right. Do you have any other additional medical training other than what Ken Romeo did right after this report, medical training of the verification decisionmakers?
A. I do not.
Q. And as you sit here today, you're not familiar with any verification decisionmakers recurrent training program at Henry Schein?
A. Yeah, they don't report to me. So I'm not sure.
Q. (Reading) Provide any additional training relative to account due diligence techniques.
Do you know if any additional training had been implemented at Henry Schein for due diligence techniques as a result of this audit in 2013?
A. I believe Ken Romeo's training, from both a medical and due diligence

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techniques, covered -- covered both topics.
Q. Okay. And so, to your knowledge, and to your recollection, anyway, the only -- the only training was whatever Ken did in that one- or two-day presentation after this report?
A. Correct.
[redacted]
Q. When was that ultimately done?
A. I'd have to go back and look. I don't know specifically off the top of my head, sir.
Q. So, at the end of 2013, if the SOM computer system was outdated, do you have any recollection in your tenure as vice-president of, among other things, Regulatory Affairs of when the system was switched?
MR. McDONALD: Object to the

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form.
BY MR. MIGLIORI:
Q. It would have happened during your time --
A. Yeah, there's been two re-tunes, I believe.
Q. Okay.
A. But I don't know the dates, sir.
Q. Okay. Enhance regulatory training on medical aspects of a field audit.
Other than what you've already described, are you aware of any other enhanced regulatory training on medical aspects?
A. Yeah, that would be the monthly reports where the auditors themselves discuss what they find and what challenges they've come across, et cetera.
Q. But that would only be within the Regulatory Affairs Department. It would not involve Verifications.
Correct?
A. Correct.

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[redacted]
Q. And, since your role as vice-president in this area in 2013, is that what you've tried to do over the past five years, be more proactive in getting the Regulatory Affairs Department involved with the verification system?
A. In my opinion, yes.
Q. Okay. But as we sit here today, it is still possible for a pended order, or an order that is kicked out of the automated system as being potentially suspicious or suspicious and it is -- it

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is possible that that today, that order can be determined or deemed by a Verifications person to be okay to ship without Regulatory involvement, correct?
A. That's my understanding.
Q. Okay.
MR. MIGLIORI: Why don't we take a lunch break?
MR. McDONALD: Sure.
THE VIDEOGRAPHER: All right. Stand by.
The time is 12:18 p.m.
Going off the record.
(Luncheon recess taken.)
- - -
AFTERNOON SESSION
- - -
THE VIDEOGRAPHER: We are back on the record.
The time is 1:03 p.m.
- - -
(Peacock Exhibit 10, interoffice memorandum dated December 19, 2012, Bates No. HSI-MDL-00622252 to

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00622258, was marked for identification, as of this date.)

BY MR. MIGLIORI:

[redacted]

Page 191

[redacted]

Page 192

[redacted]

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[redacted]

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[redacted]

added or put into the value of that account. So the total sales may be misstated because it's not just controlled substances. It could potentially be other medical devices or capital equipment.

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Q. So, as it relates to DEA compliance, which was the focus of this audit, does that mean that it -- it was possible that some of the sales data being reported through ARCOS was misstated because it included not just controlled substances, but capital purchases?

MR. McDONALD: Object to the form.

If you know, tell him. But don't guess.

A. I don't know.

Q. Okay. You agree with me this is a finding related to DEA compliance. I mean, that's --

A. That's in the report, yes.

Q. Do you have any sense of why that would be in this report?

A. I don't recall, sir. I'm sorry.

Q. Okay. That's fair enough.

MR. MIGLIORI: All right. You can set that aside.

(Peacock Exhibit 11, interoffice memorandum dated December 30, 2013,

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Bates No. HSI-MDL-00621989 to 00621996, was marked for identification, as of this date.)

BY MR. MIGLIORI:

[redacted]

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[redacted]

memorandum dated February 14, 2014, Bates No. HSI-MDL-00622219 to 00622224, was marked for identification, as of this date.)

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BY MR. MIGLIORI:

[redacted]

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[redacted]

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[redacted]

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[redacted]

MR. MIGLIORI: So, that's Exhibit Number 13. We're cruising now.

(Peacock Exhibit 14, DEA Compliance Update October 2, 2014, Bates No. HSI-MDL-00575077 to 00375079, was marked for identification, as of this date.)

07

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[redacted]

(Peacock Exhibit 13, interoffice memorandum dated February 17, 2014, Bates No. HSI-MDL-00499366 to 00499371, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. This is Exhibit 13.

BY MR. MIGLIORI:

[redacted]

[redacted]

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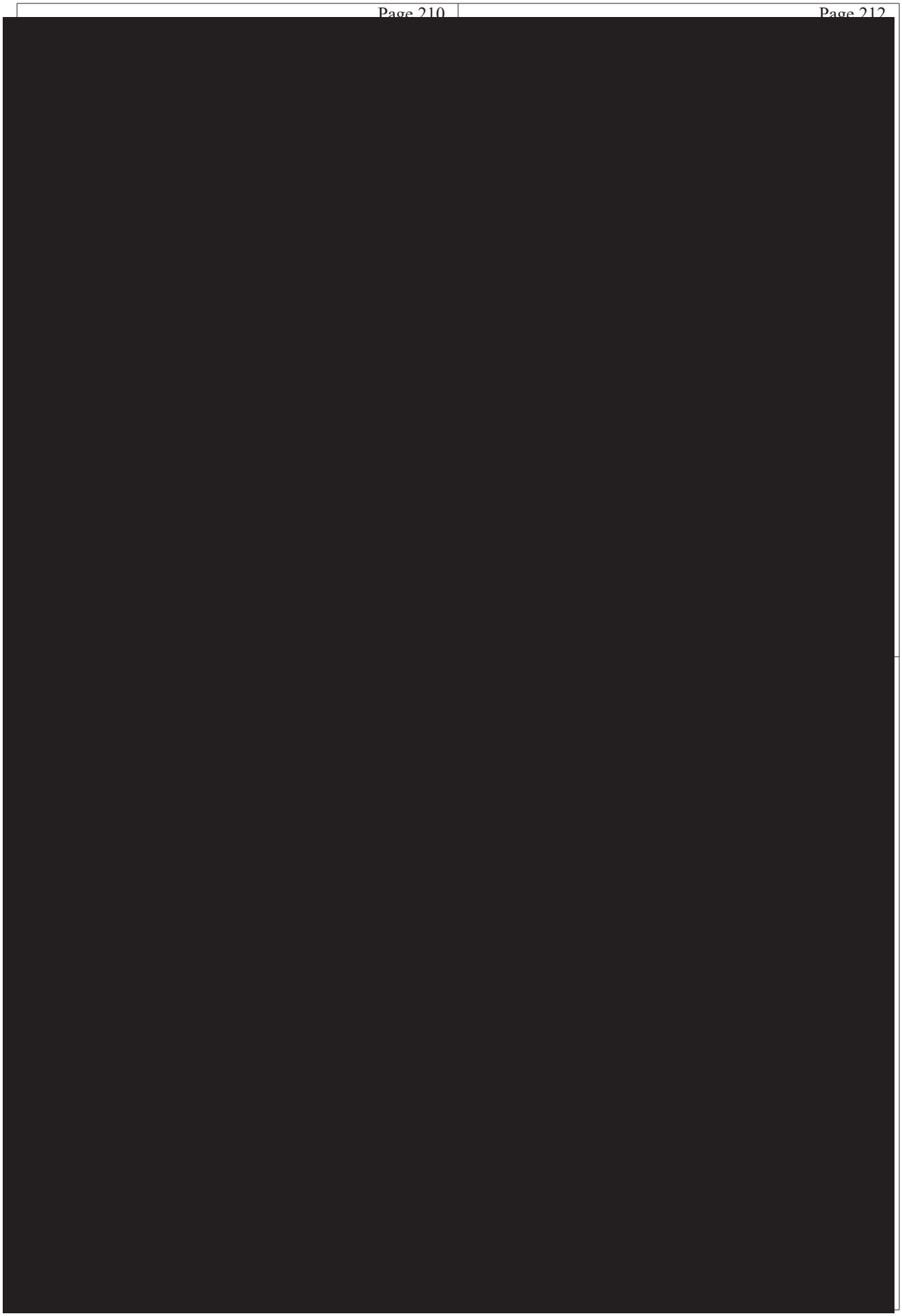
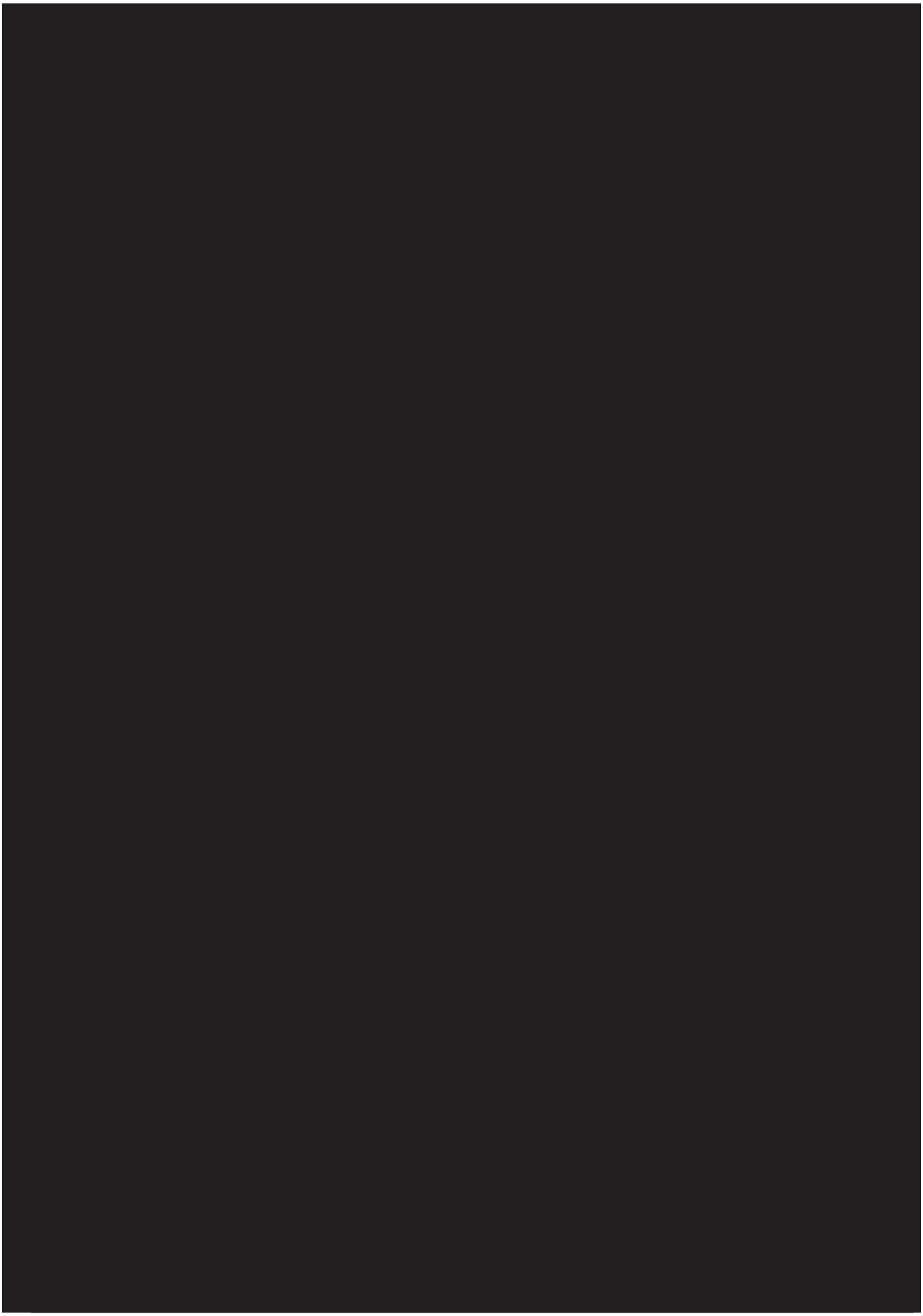


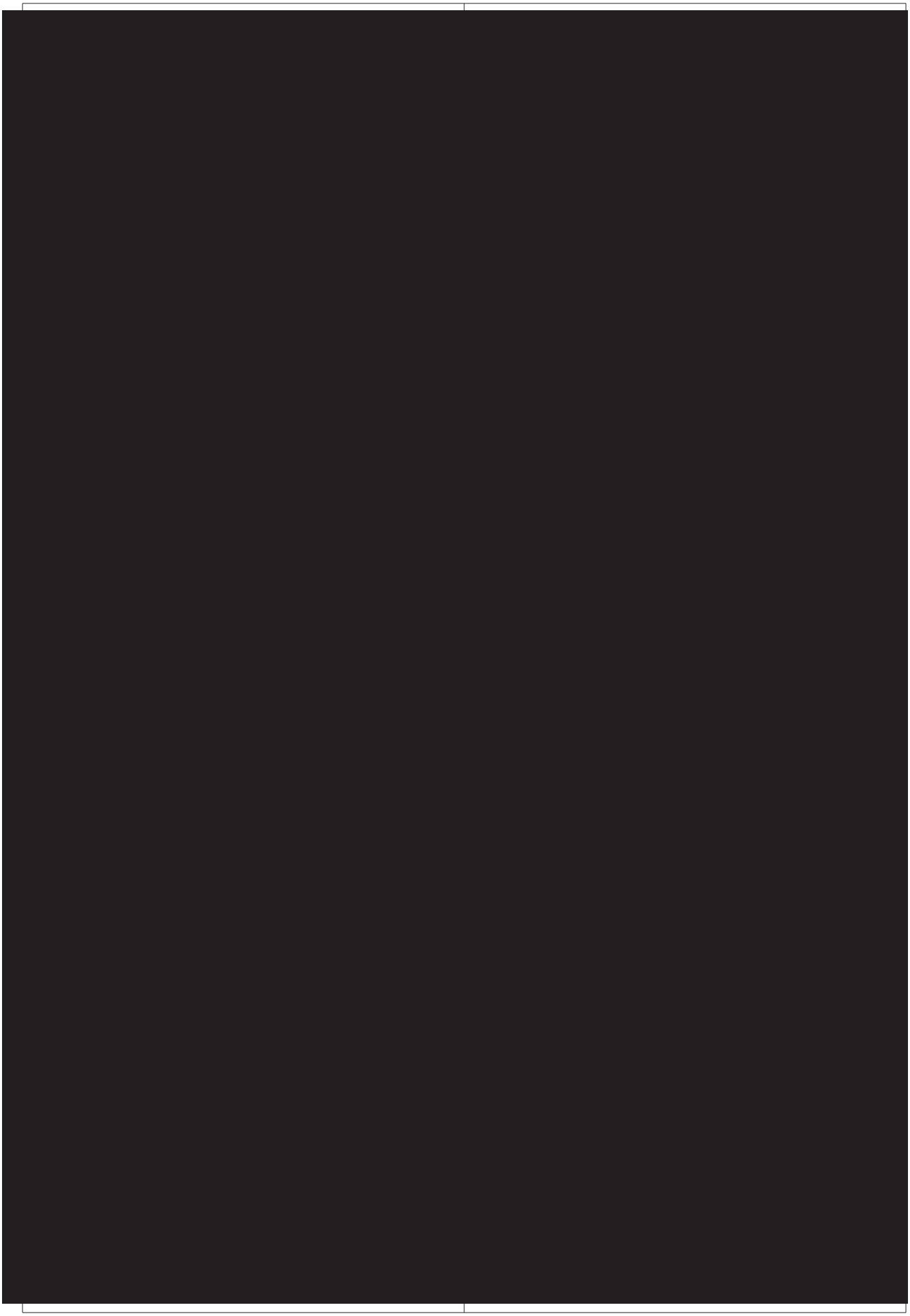


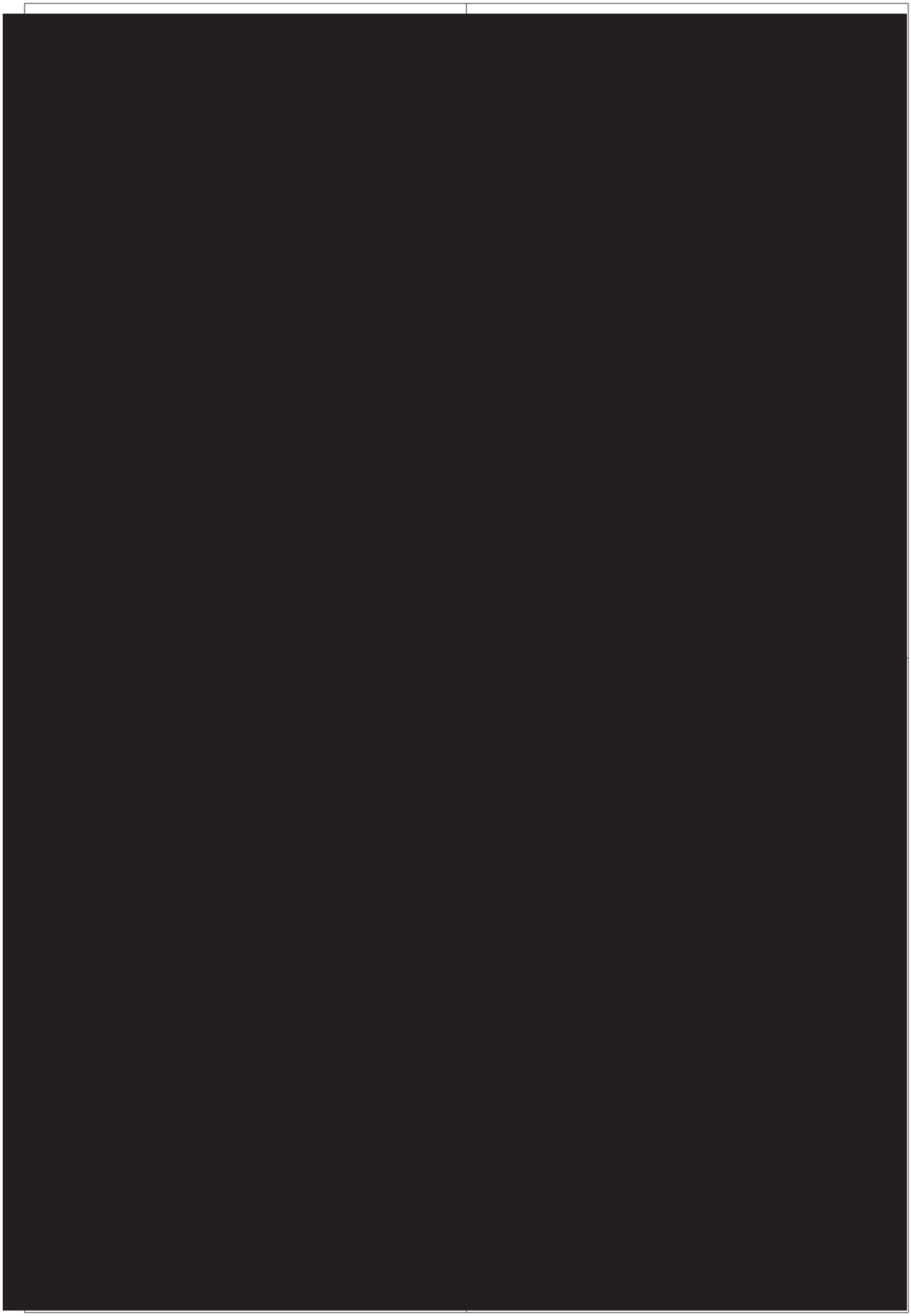
[redacted]

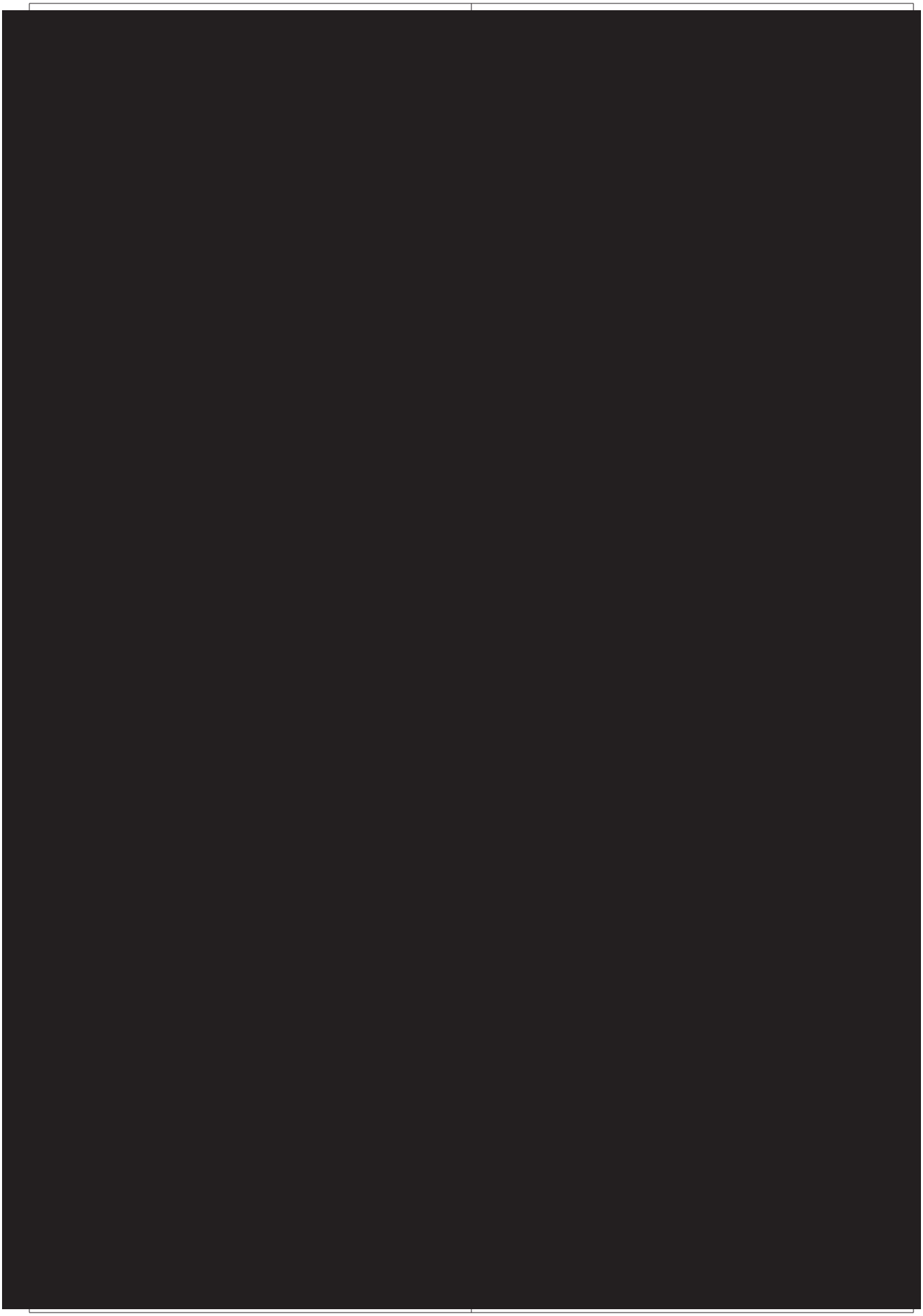
(Peacock Exhibit 15, email chain ending May 7, 2018, with attachment, Bates No. HSI-MDL-00572919 to 00572922, was marked for identification, as of this date.)

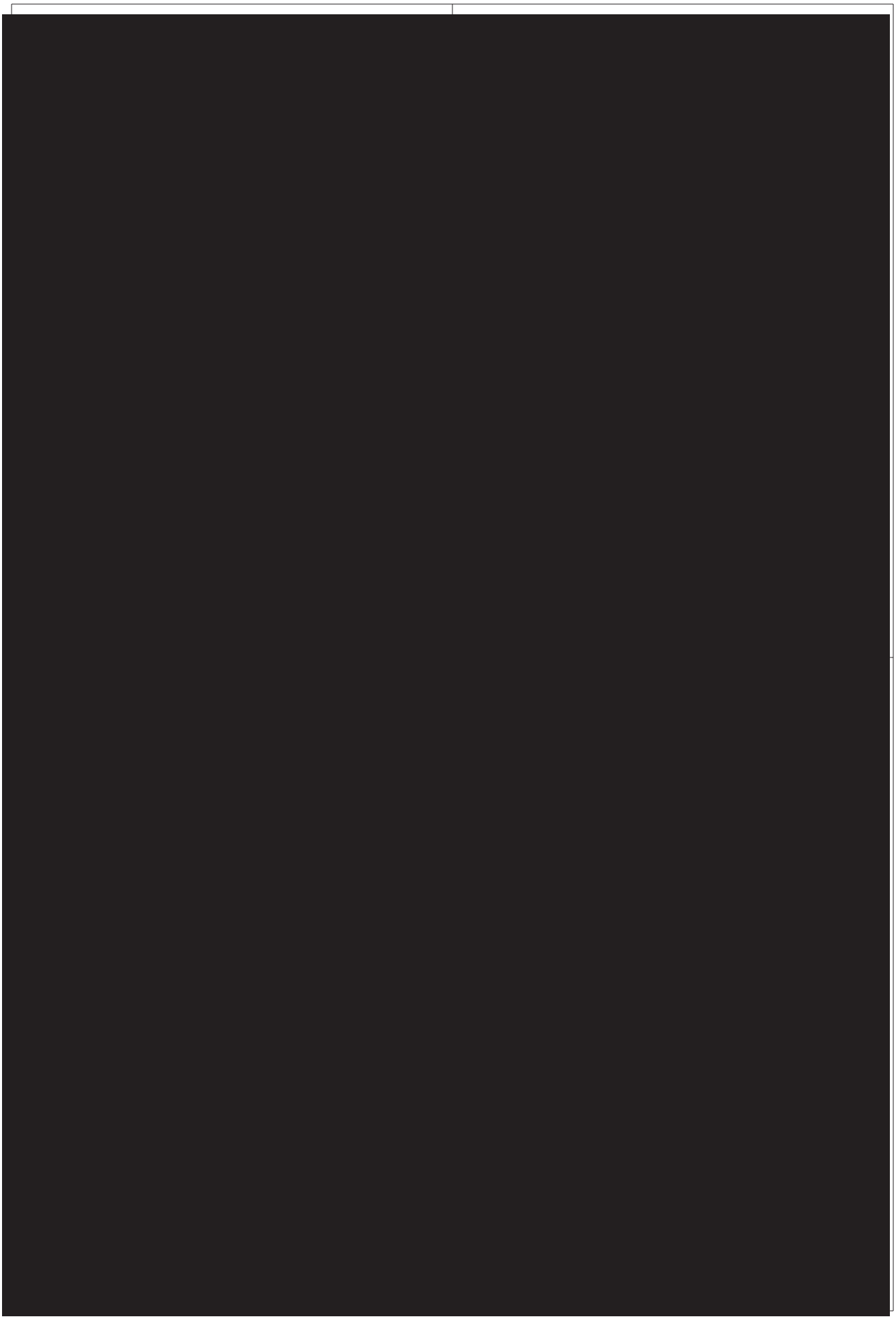
BY MR. MIGLIORI:

[redacted]









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(Peacock Exhibit 16, email dated July 19, 2018, with attachment, Bates No. HSI-MDL-00433692, was marked for identification, as of this date.)

BY MR. MIGLIORI:

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[redacted]

MR. MIGLIORI: Let's do this one quickly. This is number 17.

(Peacock Exhibit 17, email chain ending July 18, 2018, with attachment, Bates No. HSI-MDL-00209427 to 00209428, was marked for identification, as of this date.)

BY MR. MIGLIORI:

[redacted]

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[redacted]

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MR. MIGLIORI: Let me do a couple more documents. Then we'll take a break, and then we'll finish up.

(Peacock Exhibit 18, email chain ending January 26, 2016, Bates No. HSI-MDL-00156897 to 00156899, was marked for identification, as of this date.)

MR. MIGLIORI: This is Exhibit 18.

(Pause.)

BY MR. MIGLIORI:

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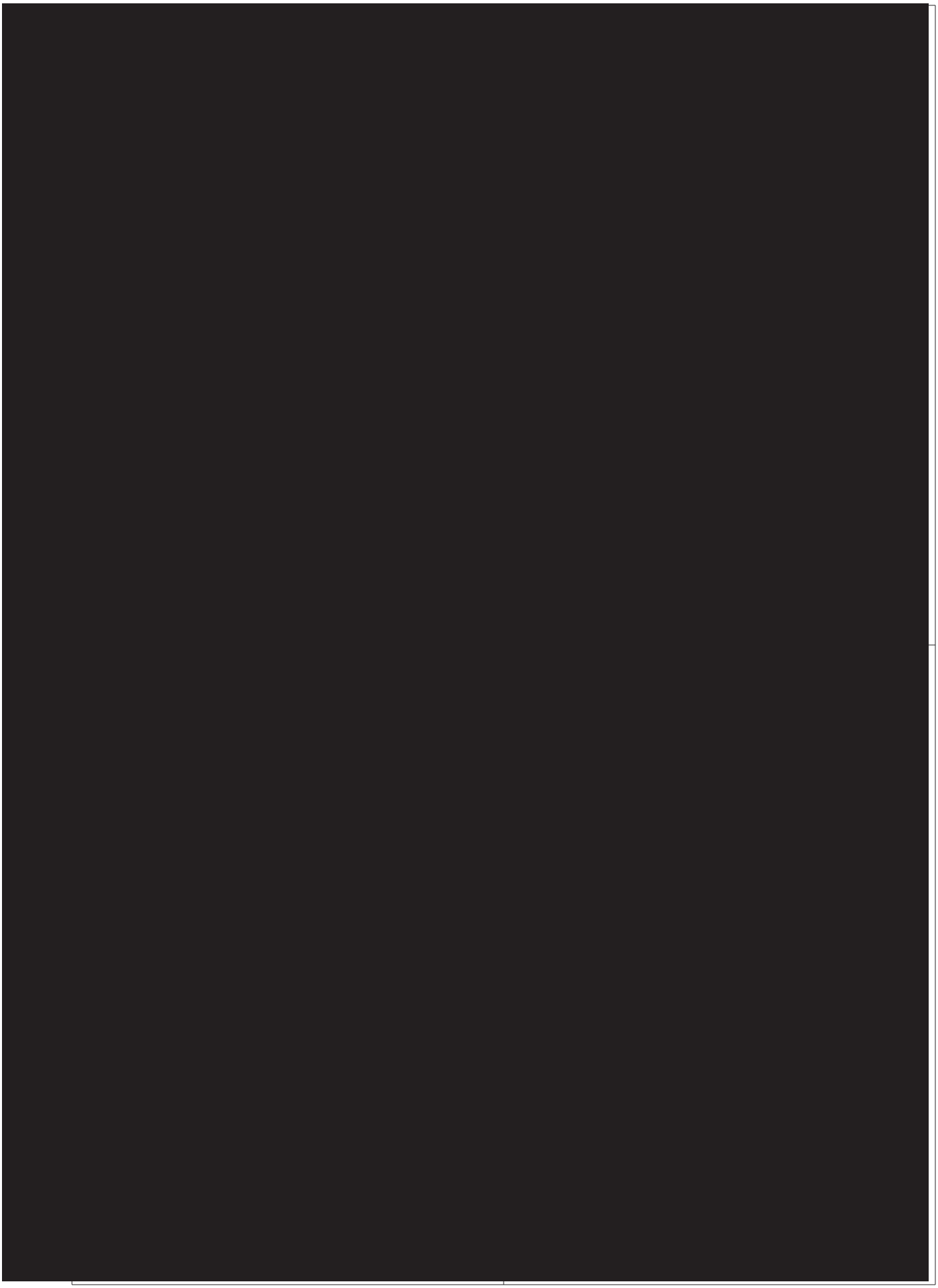
[redacted]



[redacted]

MR. McDONALD: We've been going a while. So why don't we take a break whenever you get to a good spot.

MR. MIGLIORI: Yes. I'm thinking maybe let me do this one document, 'cause I just --

MR. McDONALD: You're so excited about it.

MR. MIGLIORI: No, I'd rather just move on to the next topic at the end of the break instead of being in the middle of one.

But, if you don't mind, just give me one second.

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And I'm going to claim sickness as my basis for my request.
THE WITNESS: I'm not feeling well either.
MR. MIGLIORI: Excellent response.
Yeah, let's take a break here this way I can fine tune.
THE VIDEOGRAPHER: Okay. Re the microphones.
The time is 2:19 p.m.
Off the record.
(Recess taken.)
THE VIDEOGRAPHER: Okay. We back on the record.
The time is 2:33 p.m.

[redacted]

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[redacted]

[redacted]

(Peacock Exhibit 19, letter dated November 9, 2012, Bates No. HSI-MDL-00397293 to 00397294, was marked for identification, as of this date.)

BY MR. MIGLIORI:

[redacted]

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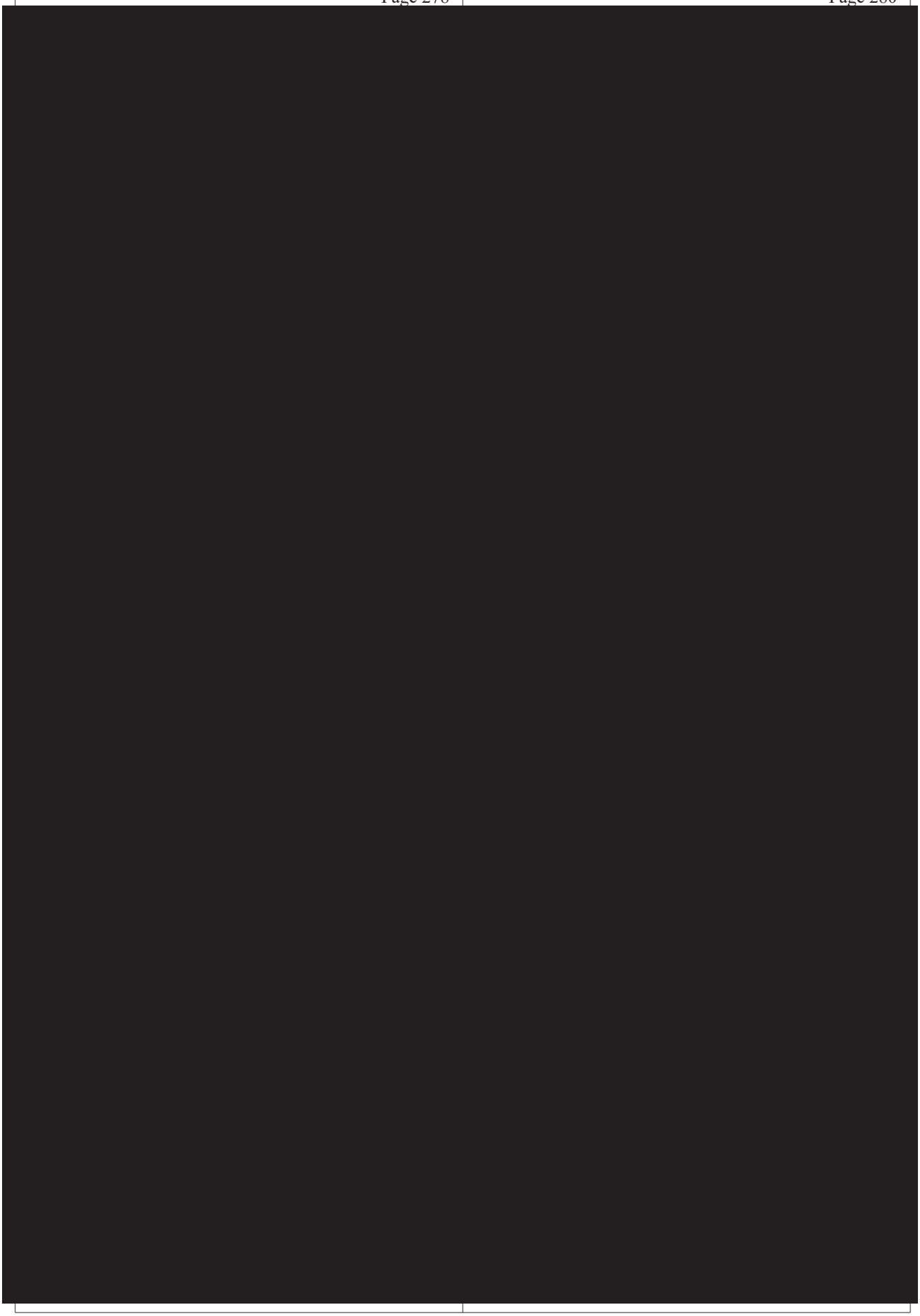

[redacted]

MR. MIGLIORI: Okay. Let me show you Exhibit Number 20.

(Peacock Exhibit 20, letter dated May 8, 2013, with attachment, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. Now, you signed on to -- you signed on to Henry Schein in May of 2013, correct, and you started in July, correct?

A. I started in July, correct.

Q. All right.

A. I accepted the position in May.

Q. All right. In May, Exhibit 20, the cover page is a letter from the State Medical Board of Ohio to a Dr. Brian Heim in Akron, Ohio, and it says: Dr. Heim, Please find enclosed certified copy of the findings, order and journal entry approved and confirmed by the State Medical Board

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meeting in regular session on May 8th, 2013.

One of the verifications or due diligence resources for Henry Schein would be the state medical licensure boards, correct?

A. Please repeat.

Q. Sure.

The Know Your Customer program at Henry Schein includes looking to, among other things, state medical licensure boards for information, correct?

A. Yes, sir.

Q. It would also include boards of pharmacy in states, correct?

A. That's correct.

MR. McDONALD: Object to the form.

BY MR. MIGLIORI:

Q. All right. On May -- if you turn to, I don't know how to identify it for you other than there's one page that's got an Exhibit 1 sticker on it that's about halfway through the stack. They're

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not Bates numbered, and I apologize.

A. Is this it up here?

Q. Yeah. So, it looks like this (indicating).

It says Daniel Horrigan May 8th, 2012, 3:10 p.m. in the Court of Common Pleas, County of Summit, Ohio. Indictment type.

A. Yep.

Q. You see that on -- this is filed on May 18th of 2012, an indictment for aggregated -- aggravated -- I'm sorry. Aggravated trafficking in drugs, aggravated trafficking in drugs tampering with evidence. And it relates to Brian D. Heim of Akron, Ohio.

Do you see that?

A. Yes.

Q. All right. When you're -- when Henry Schein does due diligence, does it turn to criminal records, or does it rely on representations of its doctors about criminal activity?

MR. McDONALD: Object to the

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form.

If you know, tell him.

BY MR. MIGLIORI:

Q. If you understand my question.

A. I do not know whether or not we look at criminal records like this.

Q. I'm going to have you just set that aside for a moment and show you the next document.

(Peacock Exhibit 21, Memorandum in Support of Motion For Summary Judgment in the United States of America versus Brian D. Heim, was marked for identification, as of this date.)

BY MR. MIGLIORI:

Q. The next document is Exhibit 21.

This document is a pleading in an action where the United States Government seeks forfeiture of assets of Dr. Heim because of his activity relevant -- related to controlled substances. I'm going to have you turn to the third page. Page number 3 it gives a

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brief history of Dr. Heim. It says: Defendant was licensed under the laws of Ohio to practice medicine. Was also registered under - this is a federal statute - by the DEA to dispense controlled substances to the extent permitted by federal law. Defendant has a history of drug violations. In 1998, defendant entered a guilty plea to 24 felony counts of theft of drugs and 21 felony counts of illegal processing of drug documents. His medical licensure was revoked and he was given treatment in lieu of conviction. Defendant's medical license was later reinstated with restrictions and he was put on probation until January of 2005.

My first question is are you aware of Dr. Heim or what Dr. Heim was doing?

A. Never heard of the gentleman before today.

Q. All right. Would you agree with me that in knowing your customer, assuming

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this is a customer of Henry Schein, that in knowing your customer, those facts that I just read to you from this pleading would be relevant facts?
A. Would they be relevant? Yes.
What I find very disturbing about this is that the DEA would reissue his license. To me that's the most disturbing because that's the first thing that a company will look at, right. So if the DEA hasn't done its due diligence, I have, you know, a hard time understanding how they're reinstating the doctor who's got counts against him and then, you know, we have to go and double check the DEA.
That's what this is -- that's what you're implying, sir.
Q. No, I'm not implying. I'm just reading the facts. And the fact are here. It says the defendant's medical license was reinstated. It doesn't say DEA registration.
A. Okay.
Q. All right. I just want to make

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sure we're on the same page.
I understand your concern about DEA, but there's no reference to DEA --
A. Okay.
Q. -- registration, other than the initial granting of it.
Do you see that? I don't want to imply anything.
A. No, I got it. I see it.
Q. All right.
A. So it was never restricted?
Q. I don't know.
I'm just asking whether those facts, a criminal history and a loss of medical licensure --
A. Yes.
Q. -- are facts that are relevant to a --
A. Sure. That would be reported.
Q. Okay. I want you to then go and look at the bottom of page 4. The bottom of page 4 says: The inspection and subsequent investigation revealed that defendant purchased 11,500 tablets of

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hydrocodone on 14 separate dates between August 17th, 2011 and June 5th, 2013 from Henry Schein Inc., a distributor of pharmaceutical drugs.
So, at least for purposes of this question, will you at least accept the purported representation that Henry Schein was a supplier of certain controlled substances to Dr. Heim?
MR. McDONALD: Object to the form.
BY MR. MIGLIORI:
Q. Do you see that in the pleading?
A. I do see that in the pleading.
Q. All right.
Henry Schein provided a summary of these purchases to DEA on July 11th, 2012.
Do you see that?
A. Mm-hm.
Q. Exhibit B Summary of Purchase Records.
And then it actually gives a table of the 11,500 pills - these are

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based on pills - of hydrocodone in this record, okay. That is the, by invoice, order date, size, total drug strength, that is Henry Schein's information it provided to the DEA, again, on July 11th, 2012.
Do you see that?
A. Yep.
Q. Okay. I'm going to show you Exhibit 22.
MR. McDONALD: Well, and I'll just tell you, state for the record that I don't have any idea if any of this is true or not because your statement that you read earlier said that the sales were between August 17th, 2011 and July 5 of 2013, and that the report was made to DEA on July 11th, 2012. I'll represent to you that's probably impossible to do. That is to provide a report in July of 2012 about sales that were made through June 5th, 2013.
MR. MIGLIORI: Well, we can --

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MR. McDONALD: Something's wrong with the dates.
MR. MIGLIORI: Yeah. The indictment -- you could reconcile the dates. The date that's wrong is not the one that you think it is, but I appreciate your spoken objection.
MR. McDONALD: There's something wrong with the dates, and I don't know what it is 'cause I've never seen this before either.
MR. MIGLIORI: That's okay.
MR. McDONALD: And I have no idea why it's remotely relevant to this witness.
MR. MIGLIORI: You're a nice person. I'm not going to make a big deal about it, but that's more of an objection than you're supposed to be.
MR. McDONALD: Well, you and I both know otherwise, but that's okay.
MR. MIGLIORI: I'm okay with it.
MR. McDONALD: Thank you.
MR. MIGLIORI: I'll remember to

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do it when you do it to my client.
MR. McDONALD: Fair enough.
(Peacock Exhibit 22, Customer Service Imaging printout, Bates No. HSI-MDL-00001198 to 00001210, was marked for identification, as of this date.)
BY MR. MIGLIORI:

[redacted]

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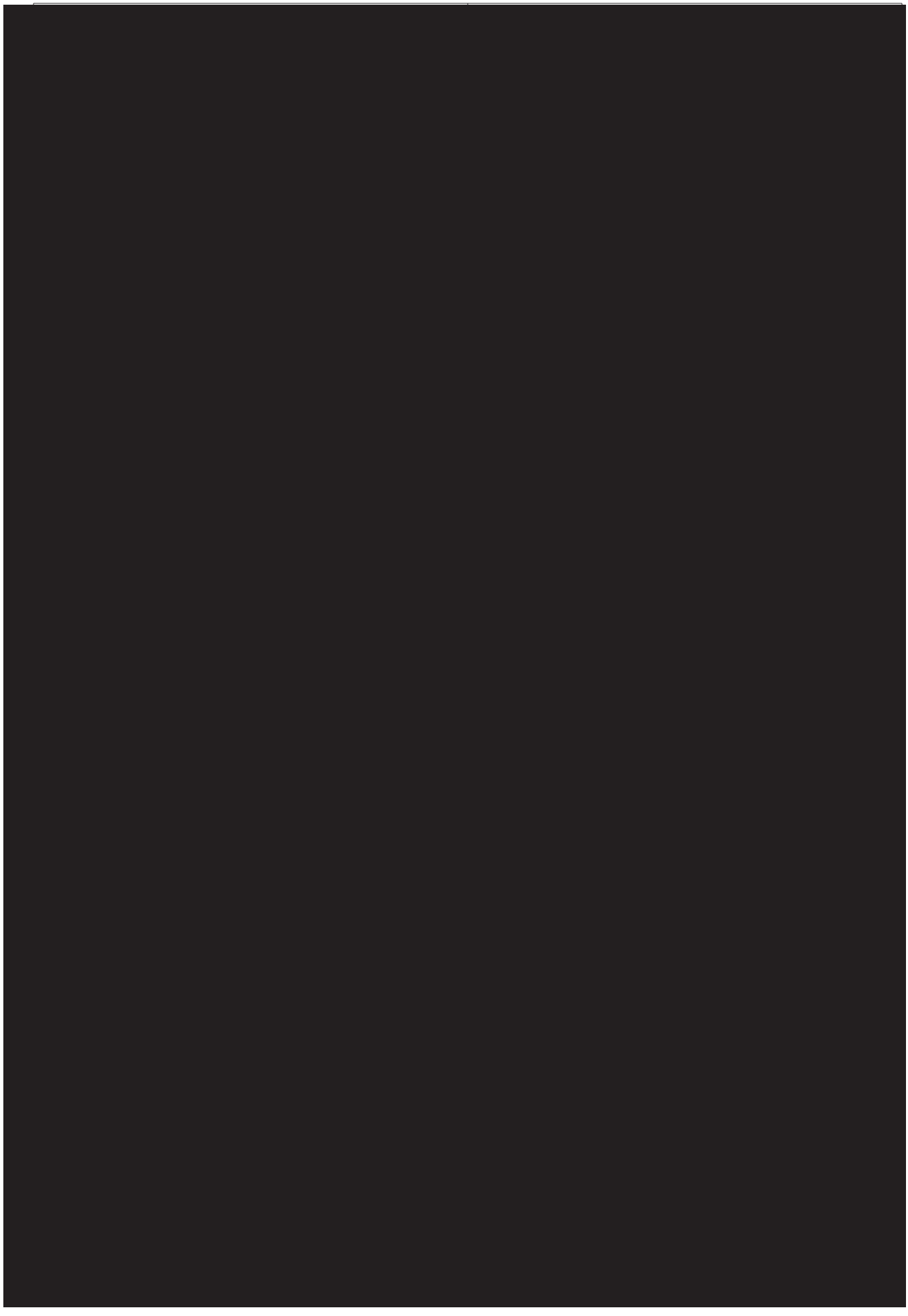
[redacted]



[redacted]

[redacted]

MR. MIGLIORI: Why don't we take a break and let me just make sure I've covered everything I wanted to.

THE VIDEOGRAPHER: The time is 3:10 p.m.

Going off the record.

(Recess taken.)

THE VIDEOGRAPHER: The time is 3:13 p.m.

Back on the record.

BY MR. MIGLIORI:

[redacted]

[redacted]

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[redacted]

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[redacted]

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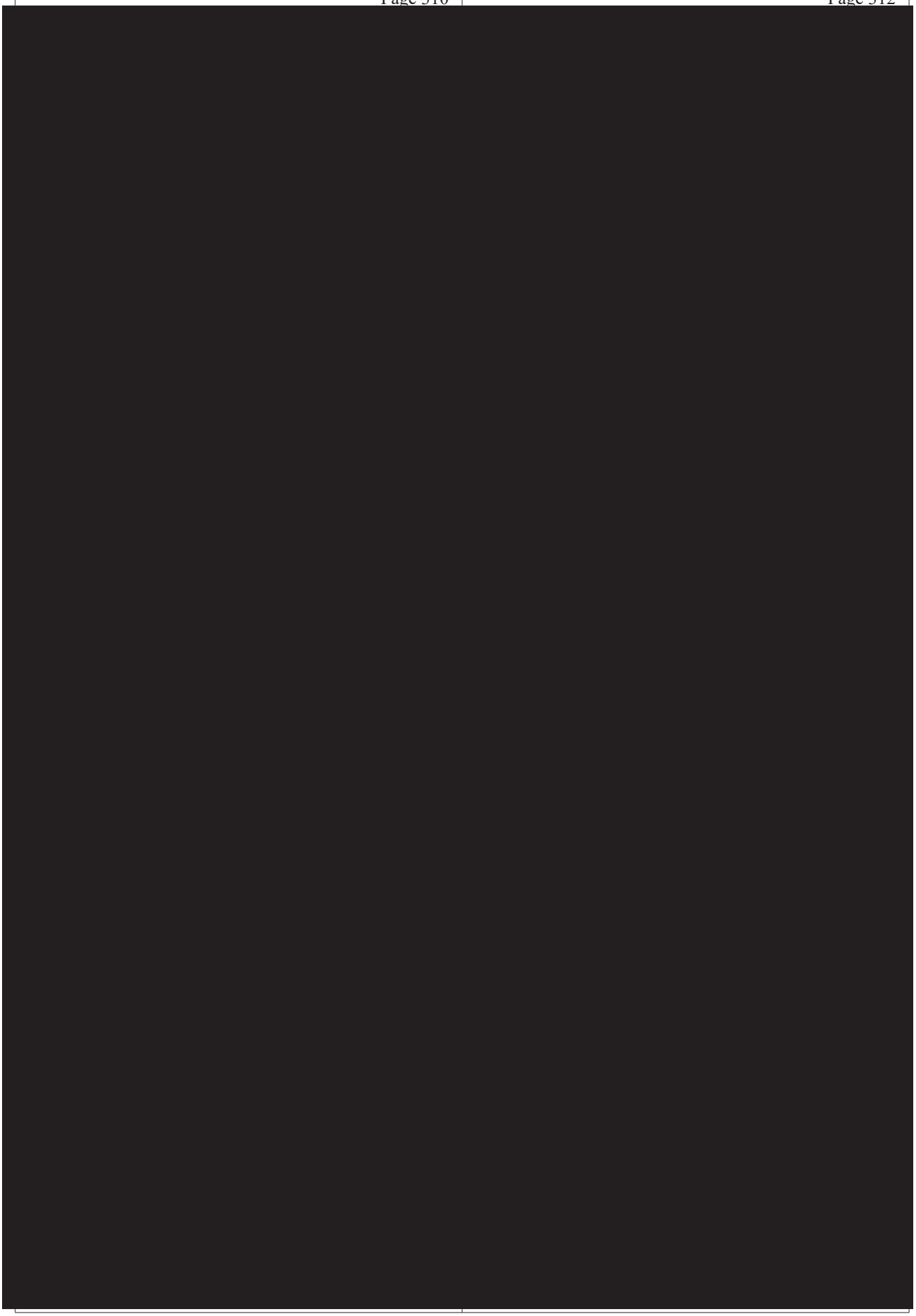
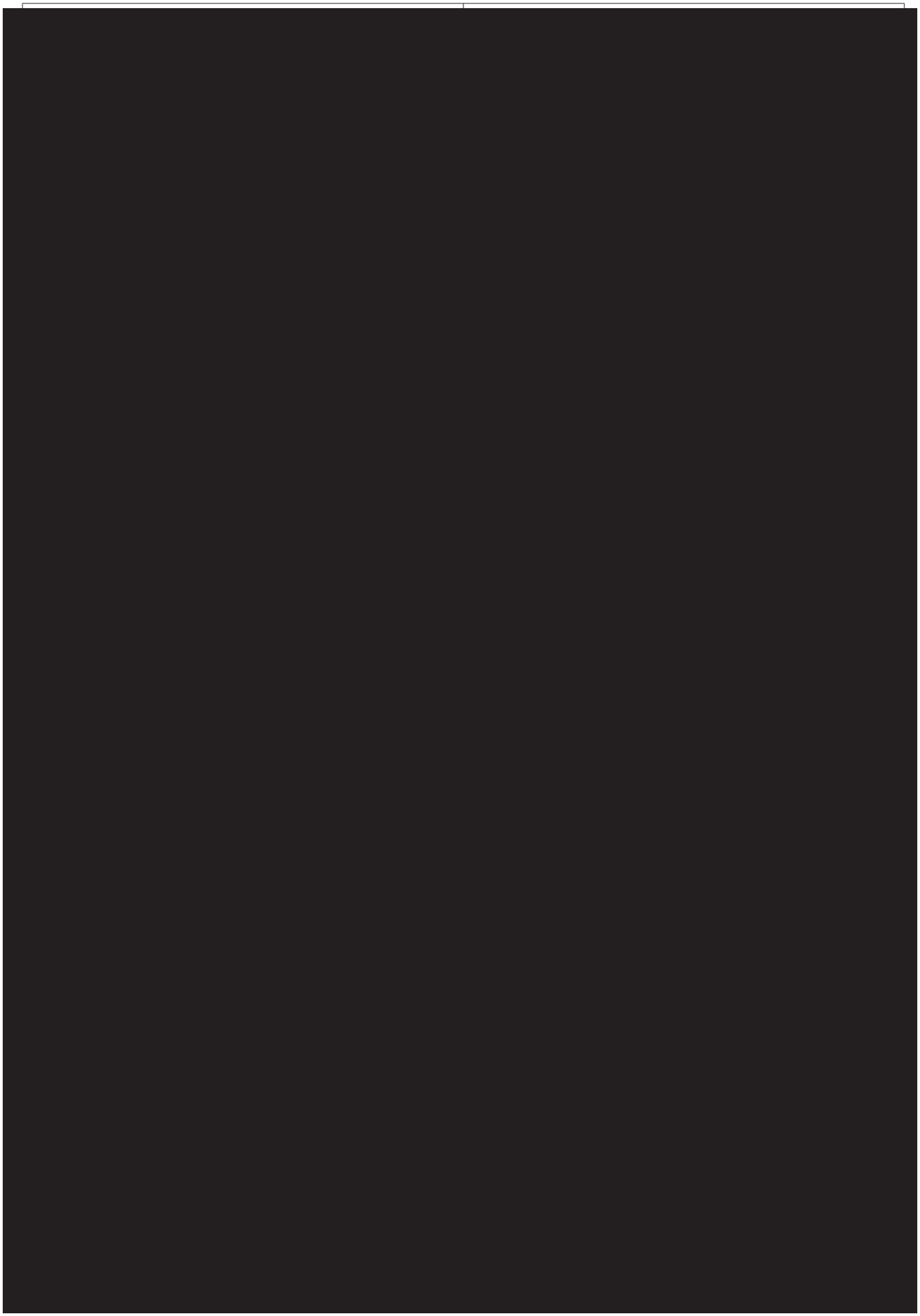
[redacted]

(Peacock Exhibit 23, Cegedim Dendrite Draft Schein SOM Procedural Review, Bates No. HSI-MDL-00404369 to 00404383, was marked for identification, as of this date.)

BY MR. MIGLIORI:

[redacted]

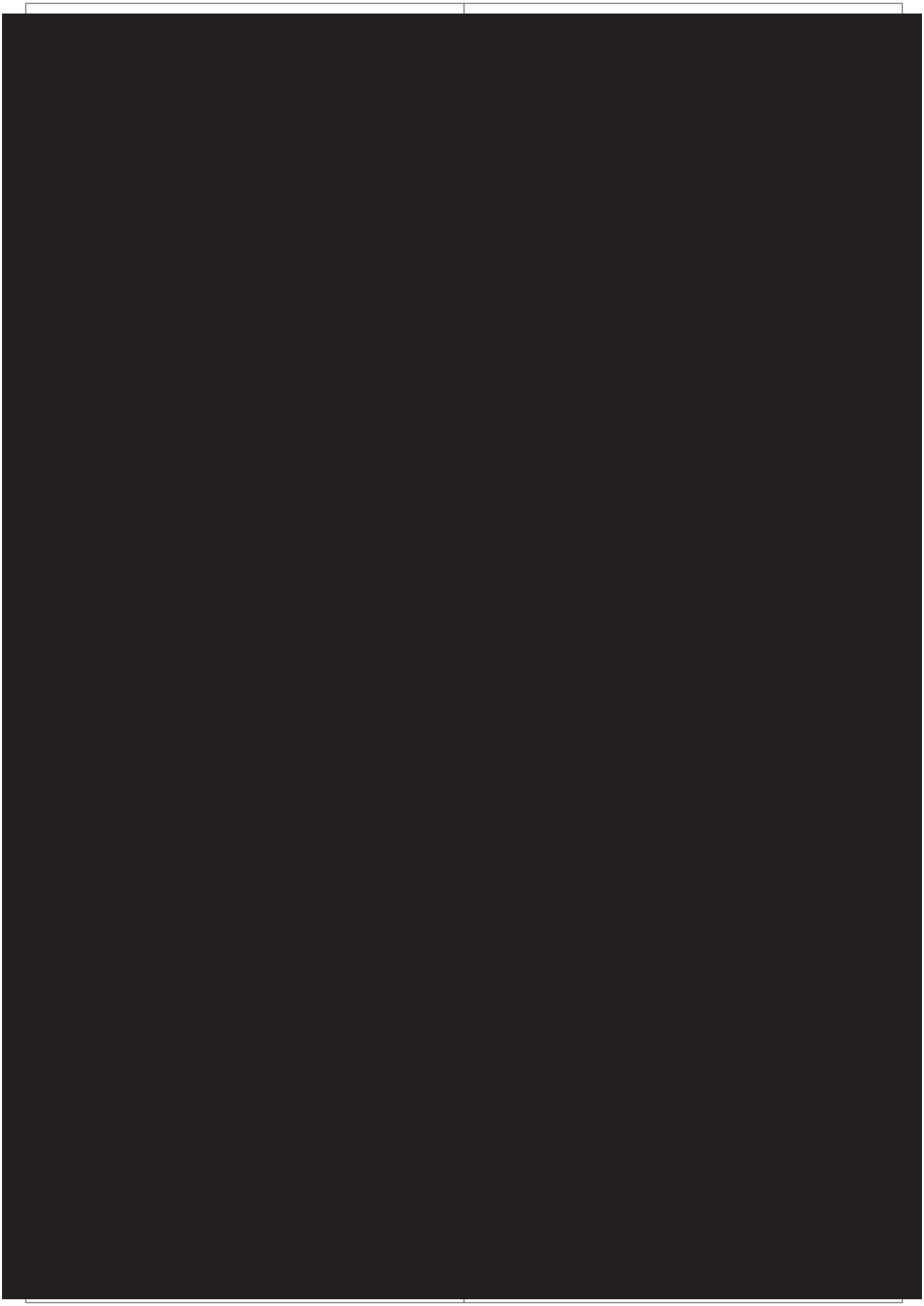




[redacted]

Q. All right.
MR. MIGLIORI: Last sticker.
(Peacock Exhibit 24, email chain ending February 27, 2015, Bates No. HSE-MDL-0039634, was marked for identification, as of this date.)
BY MR. MIGLIORI:

[redacted]



[redacted]

the DEA Compliance Team to not send a suspicious order letter to the DEA.

That is not consistent with Henry Schein's policies and procedures for restricted accounts, correct?

A. Yes. I can't -- I can't defend why this had happened. It does not follow our --

Q. This should not have happened?

A. -- policy.

MR. McDONALD: Well, object to the form.

BY MR. MIGLIORI:

Q. This should not have happened, correct?

MR. McDONALD: Object to the form.



A. Doesn't follow our policies.

MR. MIGLIORI: All right. I really appreciate your time.

I appreciate you tolerating my weak voice.

THE WITNESS: No worries.

MR. MIGLIORI: But I do appreciate you being here. I don't have anything else.

MR. McDONALD: You pass the witness?

I'll reserve my questions.

MR. MIGLIORI: Okay.

MR. ASFENDIS: I'm here and counsel for Cardinal tells me he has nothing either.

THE VIDEOGRAPHER: All right. Stand by, please.

This marks the end of today's deposition.

The time is 3:34 p.m.

Off the record.

(Deposition adjourned at approximately 3:34 p.m.)



A C K N O W L E D G M E N T

STATE OF )
:ss
COUNTY OF )

I, JEFFREY S. PEACOCK, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of January 30, 2019; that the transcript is a true and complete record of my testimony, and that the answers on the record as given by me are true and correct.

_____
JEFFREY S. PEACOCK

Signed and subscribed to before me this _____ day of _____, 2019.

_____
Notary Public, State of



E R R A T A

PAGE / LINE / CHANGE / REASON

CERTIFICATE

STATE OF NEW YORK
COUNTY OF NEW YORK

I, Marie Foley, RMR, CRR, a Certified Realtime Reporter and Notary Public within and for the State of New York, do hereby certify:

THAT JEFFREY S. PEACOCK, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of February, 2019.

_____
MARIE FOLEY, RMR, CRR



LAWYER'S NOTES

PAGE / LINE